APPENDIX

VOLUME I (In Three Volumes) Pages 1-448

MAR 1
MICHAEL RODAK, J

In The

Supreme Court of the United States

October Term, 1972

No. 72-549

THE SCHOOL BOARD OF THE CITY OF RICHMOND, VIRGINIA, ET AL.,

Petitioners,

v.

THE STATE BOARD OF EDUCATION OF THE COMMONWEALTH OF VIRGINIA, ET AL.,

No. 72-550

CAROLYN BRADLEY, ET AL.,

Petitioners,

v.

THE STATE BOARD OF EDUCATION OF THE COMMONWEALTH OF VIRGINIA, ET AL.

ON WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE FOURTH CIRCUIT

CERTIORARI GRANTED JANUARY 15, 1973
PETITIONS FOR WRITS OF CERTIORARI
FILED OCTOBER 4, 5, 1972

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DOCKET ENTRIES

1961

Sept. 5—Complaint filed.

Sept. 6—Summons issued.

Sept. 11—Marshal's return on summons executed, filed.

Sept. 22—Motion to dismiss complaint under Rule 12(b), filed by defts. School Board of City of Richmond and H. I. Willett.

Sept. 26—Motion to dismiss filed by defts. E. J. Oglesby, Edward T. Justis and Alfred L. Wingo, ind. and constituting the Pupil Placement Board of Va.

Oct. 24—Application for hearing on motions to dismiss filed by plfs.

Nov. 6—Order ent. consolidating this case with C. A. 3365 and Alex. C. A. 2476 for hearing on motion to dismiss etc. on 12-8-61. Copies mailed counsel.

Dec. 8—Case argued on Motions to dismiss (Lewis, J.) Motions denied. Plaintiffs allowed thirty (30) days to file amended complaint.

1962

Jan. 4—Amended complaint filed.

May 10—Interrogatories filed by plfs.

May 25—Answer to interrogatories filed by defts. School Board of City of Richmond and H. I. Willett.

May 25—Answer of Pupil Placement Board to Interrogatories, filed.

May 25—Joint and several answer to amended complaint filed by defendants, E. J. Oglesby, Alfred L. Wingo and

E. T. Justis, individually and constituting the members of the Pupil Placement Board, etc., filed.

June 21—Answer of School Board of City of Richmond and H. I. Willett, Div. Supt., to amended complaint, filed.

July 23—Depositions in behalf of pltfs, received.

July 23—Trial Proceedings—Butzner, J.: Appearances by parties by counsel. Issues joined. Evidence fully heard and argued.

July 25—Memorandum of the Court filed.

July 25—Decree ent. as follows: denying motions to dismiss; enjoining and restraining defts. from denying Carolyn Bradley, Michael Bradley, Daria A. Cameron, Rosalind Dobson, Bruce W. Johnson, John Edward Johnson, Jr., Phyllis Antoinette Johnson, Robert S. Meyers and William Dunbar Quarles, Jr. admission to Chandler Junior High School and from denying Morgan N. Jackson admission to John Marshall High School; denying prayer of plfs. for further injunctive relief at this time; retaining cause on docket, with leave of any party, or of persons constituting a class with the plaintiffs, to petition for appropriate relief, all ent. and filed.

Aug. 22—Joint notice of appeal filed by Minerva Bradley, I. A. Jackson, Jr., Rosa Lee Quarles, John Edw. Johnson, Elihu C. Myers and Eliz. S. Myers.

Aug. 23—Appeal Bond in sum of $250, executed, filed by plf.

Sept. 19—Appeal Record (one vol.) and exhibits delivered to Clerk, USCA (Plfs. $3.10).

Oct. 1—Motion to extend time for filing record on appeal and docketing appeal filed by pltf.

1962 *Docket Entries*

Oct. 1—Order enlarging time for docketing appeal ent. & filed; notice to counsel.

Oct. 16—Reporters Transcript filed, with duplicate copy.

Oct. 17—Reporter's transcript delivered to Clerk, U.S.C.A., as Vol. II of appeal record.

1963

May 21—Appeal record (2 volumes) and exhibits received from Clerk, USCA.

May 21—Photocopy of opinion of U.S. Court of Appeals (decided May 10, 1963), filed.

May 21—Certified copy of Decree of U.S. Court of Appeals, entered May 10, 1963, reversing District Court in part, remanding case with direction to retain jurisdiction for further proceedings and such further orders as are not inconsistent with the opinion of the Opinion of U.S. Court of Appeals; that costs on appeal be paid by appellees, filed May 21, 1963.

May 21—Certified copy of Order of U.S. Court of Appeals, entered May 21, 1963, directing that certified copy of decree (above) in lieu of Mandate, be forthwith transmitted to Clerk of the United States District Court at Richmond, filed.

May 31—In Open Court—Butzner, J.: Appearances by counsel. (Purpose of hearing: To fulfill decree of Fourth Circuit Court of Appeal's decree). Orders presented. Resolution of School Board, filed. Matter argued.

June 11—Order on Decree of USCA, vacating paragraph 3 of Order entered July 25, 1962, but continuing in full force and effect other provisions of the order; enjoining defendants, their agents, et al, from refusing admission

of any pupil on basis of race; from placing pupils in schools upon basis of attendance areas previously established; from assigning pupils upon promotion on basis of race; from conditioning the grant of transfer upon applicant's submission to futile, burdensome and discriminatory administrative procedures; that defendants may submit plan consistent with opinion of U.S. Court of Appeals for the Fourth Circuit, providing for immediate steps to terminate racial discrimination, etc.; if such plan is submitted and approved, it shall supersede the injunction mentioned in paragraph 2 of this order; defendants to pay costs of this case; retaining case of docket for further orders and directing clerk to mail copies of this order, entered and filed June 6, 1963. (Copies mailed counsel by Clerk).

July 11—Plaintiff's motion for further relief filed.

July 19—Plaintiff's motion to add parties-defendant, filed.

July 29—In Open Court—Butzner, J.: Appearances by counsel. Plaintiff adduced evidence on motion for further relief. Defendants introduced 5 exhibits. Opinion from bench that defendants should not be found in contempt. Motion for contempt proceedings denied. Exceptions and briefs to be filed in 30 days and answer and brief 30 days thereafter. Motion to add parties defendant granted.

Aug. 1—Order granting motion of plaintiffs to add parties defendant; plfs. to file exceptions on or before 9-1-63 to plan of desegregation, and the School Board of the City of Richmond to file its brief on or before Oct. 1, 1963; paragraph 2 of order of 6-6-63 to remain in full force and effect pending approval of a plan, ent. 8-1-63, filed. Copies mailed as directed.

Aug. 28—Exceptions to plan filed by pltfs.

1963 *Docket Entries*

Sept. 9—In Open Court—Butzner, J.: Appearances by counsel. Matter came on for hearing on plaintiffs' motion for temporary restraining order. Evidence adduced by defendants. Findings and conclusions from Bench. Temporary injunction to be entered. Prayer for enlargement to be taken up at docket call on Sept. 11.

Sept. 9—Motion for temporary restraining order filed by plaintiffs.

Sept. 9—Temporary restraining order on motion by plaintiffs, entered & filed.

Sept. 9—Reporter's transcript of Proceedings filed. (Proceedings on 7-29-63)

Sept. 13—Order setting hearing on motion to make permanent the temporary restraining order ent. 9-9-63, on Dec. 20, 1963, at 10 A.M., ent. 9-11-63, filed. Copies mailed as directed.

Dec. 18—Notice of motion pertaining to costs filed by pltfs.

Dec. 20—In Open Court—Butzner, J.: Appearances by counsel. Hearing had on plan. Plaintiffs adduced evidence on plan. Transcript of July 29, 1963 made a part of hearing. Certain previously filed exhibits considered a part of record. Plan argued. Motion for counsel fees argued.

1964

March 17—Memorandum of Court filed March 16, 1964.

March 17—Order approving School Board Plan with reservations & dissolving injunction of June 6, '63 and allowing pltfs. counsel fees in sum of $75.00 ent. & filed March 16, 1964. Copies mailed to counsel of record by Judges office.

April 3—Plaintiff's Notice of Appeal from so much of order

of March 16, 1964 and from order of June 6, 1963, filed. ($5.00 paid)

April 3—Plaintiffs' designation of entire record on appeal, filed.

April 3—Plaintiff's Appeal Undertaking ($250) (corporate surety), filed.

May 1—Plaintiffs' Bill of Costs filed. Notice to tax costs issued May 5, 1964.

May 6—Reporter's Transcript of Hearing on Plan and Motion for Counsel fees filed.

May 7—Appeal record, Vols. I, II, III and IV and exhibits delivered to Clerk, USCA. (Plfs. $5.85)

May 12—Costs taxed in favor of plaintiffs and against defendants in the amount of $584.05. Notice of costs issued.

1965

May 10—Appeal record, Vols. I, II, III & IV and exhibits, received from Clerk, U.S.C.A.

May 10—Certified copy of Judgment of U.S. Court of Appeals in lieu of Mandate with printed copy of opinion, affirming District Court, entered Apr. 7, 1965, received and filed May 10, 1965.

May 13—Appeal record, Vols. I, II, III & IV and exhibits returned to Clerk, USCA, upon his written request.

Dec. 13—Certified copy of order of Supreme Court of U.S. entered Nov. 15, 1965, vacating with costs order of U.S. Court of Appeals and remanding case to District Court for further proceedings in conformity with opinion of Supreme Court; Renee Patrice Billiam, et al to recover

costs from School Board in Sum of $100.00, received and filed Dec. 13, 1965.

Dec. 13—Copy of Opinion of Supreme Court of U.S. received and filed.

1966

Jan. 3—Appeal Record, Vols. I thru IV and exhibits, received from Clerk, USCA.

Mar. 1—Interrogatories filed by plfs.

Mar. 3—Notice of hearing objections to interrogatories filed by defts.

Mar. 3—Objections to interrogatories filed by defts.

March 17—Notice to take depositions of Henry I. Willett, Roy N. Puckett & certain other employees of School Board of City of Richmond filed by pltf.

March 17—List of witnesses expected to be called & list of exhibits pltfs. expect to introduce received.

March 22—Package of School Board Exhibits, received (in vault).

Mar. 30—In Open Court: Butzner, J.: Appearances: Parties by counsel. Resolution of the School Board of the City of Richmond that the Desegregation Plan for the Richmond Public School System approving & adopting said plan, filed. Order that the Desegration Plan for the Richmond Public School System dated March 30, 1966 is approved; that the School Board shall put the Plan into effect for the 1966-67 school year; that the Court retain jurisdiction of this action, entered and filed.

Apr. 7—Reporter's transcript of 3-30-66, filed.

1970 *Docket Entries*

Feb. 25—Motion for Leave to Withdraw as Counsel for Plaintiffs by S. W. Tucker and Henry L. Marsh, III filed.

Feb. 25—Bill of Costs filed. Notice to tax costs issued March 26, 1970.

March 10—Interrogatories propounded by plaintiffs to deft. School Board, filed.

March 10—Motion for Further Relief filed by plaintiffs.

March 12—Order—defts. within ten days to advise the Court if Public schools are being operated with constitutional requirements; or amt. of time it will require to bring public schools into compliance with requirements of Constitution; ent. 3/12/70 and filed. Copies mailed as directed.

March 19—Statement at Bar as Required by Order of 3/12/70 w. Certificate of Service.

March 23—Order—all counsel appear before Court 4:00 PM 3/31/70 for pre-trial conference and setting of trial dates and other appropriate matters; ent. 3/23/70 and filed. Copies mailed to all attys of record.

March 25—Deft's answers to interrogatories of the plaintiff filed by atty. for deft.

Mch. 30—Objections to taxation of Costs filed.

Mar. 26—Payment of costs taxed in favor of plaintiff in the amount of $584.05 received from the City of Richmond.

Mar. 30—Check number 6234 in the amount of $584.05 mailed to Messrs. Tucker & Marsh, attorneys for plaintiff, for payment of costs in favor of plaintiff.

Mar. 31—In Open Court: Merhige, J. Appearances: Parties by counsel. Pre-trial conference held. Order of 1964 allow-

ing Freedom of Choice vacated. Plan to be filed by defendants on or before 5-11-70, and plaintiff to note objections by 6-8-70. Hearing to be held on 6-19-70 or 6-20-70.

Mar. 31—Minutes of court filed.

April 1—Order plaintiffs motion for further relief be and is granted 2) order of 3/30/66 is hereby vacated; 3) defts to replace dual system with unitary system; 4) defts. to file before 5/11/70 a plan for unitary system; plaintiffs granted leave to file exceptions to any plan before June 8, 1970; 6) hearing on defts plan and plaintiffs exceptions will be held 10:00 AM 6/19/70; 7) all parties to be fully prepared by fall term 1970; ent. 4/1/70 and filed. Copies mailed and delivered as directed.

April 10—Interrogatories to deft. school board filed by Plaintiff.

April 10—Motion filed by plaintiffs.

April 15—Order that before May 11, 1970 defts. to file & serve upon attys. of plaintiffs maps, showing residence of all students incl. newly annexed areas by race and grade level; ent. 4/15/70 and filed. Copies to attys. of record.

April 23—Answers to Additional Interrogatories filed by School Board of Richmond, numbered 11 through 15 inclusive filed. (LG)

April 29—Order permitting Henry L. Marsh, III and S. W. Tucker to withdraw as counsel in this case. ent. 4-29-1970 and filed. Copies mailed to all counsel of record. EEB

April 29—Notice of Appearance of Counsels, Norman J. Chachkin and Louis R. Lucas filed. EEB

May 4—Set of 14 Spot Maps, (Grades 1 thru 12, Grade K

and map "Special Education") received in clerk's office from defendants.

May 11—Objection to Court's Personal Inspection of School Sites, filed by Atty. for Pltf.

May 11—Memorandum in Support of Plaintiffs' Objection to Court's Personal Inspection of School Sites, filed by Plts. EEB

May 11—Report and Motion of defendant school board filed by attorney for defendant with proposed plan. (LG)

May 15—Order that counsel for plaintiffs to advise counsel for defts, forthwith if they are going to file exceptions to defts proposed plan; if exceptions are to be filed, trial counsel will confer for arriving at stipulations to limit testimony at trial. If counsel cannot agree, all counsel to meet in conference room at 10:00 AM June 11, 1970, tendering to each exhibits; all exhibits to be filed by 6/15/70 with list of exhibits; list of witnesses submitted by 6-12-70 and a copy of research work used by expert witnesses; stipulations to be signed by one counsel for each side; interrogatories to be filed by 6/15/70 with list of authorities; ent. 5/15/70 and filed. Copies mailed to all attys. of record. (LG)

May 25—Order that Norman J. Chachkin, an atty. for plaintiff is to withdraw certain exhibits from 1963 hearings in this action from Clerk's Office, to be returned by June 18, 1970 or upon request of Court of deft's counsel. ent. 5/25/70 and filed. Copies mailed to attys. of record. (LG)

May 27—Notice to Take Deposition June 3, 1970 filed by atty. for plaintiffs. (LG)

June 4—Motion to intervene under Rule 24(a)(2) filed by Bellevue-Ginter Area Civic Assn. with Notice of Motion.

1970 *Docket Entries*

June 5—Order that para. 5 of the court's order filed 4-1-70, be amended to read as follows: "5. The plfs. herein are given leave to file exceptions, if any, to any such plan, on or before 10 a.m. on 6-10-70; that counsel for the parties hereto appear before the court, along with counsel for all parties who have filed motions to intervene prior to 5 p.m. June 11, 1970, at 4 p.m. on June 12, 1970, for arguments on any motions to intervene; counsel to deliver to the court on or before 10 a.m. on June 12, 1970, a list of authorities upon which they intend to rely in support of their motions to intervene; counsel for prospective intervenors to be prepared to comply with the conditions set out in the court's pre-trial order filed 5-15-70; this suggestion is not to be construed as a ruling that the motions to intervene will be granted, but is made to the end that should any such motions be granted, there will be no delay in the commencement of the hearing set for June 19, 1970, ent. 6-5-70. Copies mailed as directed.

June 10—Plaintiffs' Exceptions to Defendants' Plan of Desegregation filed (LG)

June 10—Depositions of Lucien D. Adams, Thomas C. Little, Mary S. Jones & Roy N. Puckett taken June 4, 1970 filed (LG)

June 11—Motion to Produce Documents filed by attorney for plaintiffs. (LG)

June 11—Motion and Amended Motion to Intervene under Rule 24(a)(2) filed by counsel for Robert Douglas Bain, etc., and Sherwood Park Civic Association, et al

June 11—Bellevue-Ginter Area Civic Assn., amended pleading and pleading on behalf of other intervenors, filed.

June 11—Motion to intervene under Rule 24 filed by Westover Hills Parent-Teachers Assn.

June 11—Pleading of Westover Hills Parent-Teachers Assn., upon its application to intervene, filed.

June 11—Intervenors Pleading of Noel Austin and others who join him, that they be allowed to intervene, filed.

June 11—Notice of Motion filed by Noel Austin and others.

June 11—Memorandum in support of motion to intervene filed by Noel Austin and others.

June 12—Memorandum on behalf of intervenors to intervene under R. 24 of FRCP, filed by Bellevue-Ginter.

June 12—List of Legal Authorities to be relied upon by defts. during trial, filed by defts.

June 12—Statement of defts. pursuant to order of the court dated 5-15-70, filed.

June 12—List of defts' exhibits filed.

June 12—Qualifications of defts' witnesses, filed.

June 12—Objections to plfs' exhibits filed by defts.

June 12—In Open Court: Merhige, J. Appearances: Parties by counsel. Pre-trial held. Motion to intervene granted as to all parties, which had previously filed such motions.

June 12—Minutes of court filed.

June 12—Plaintiff's list of witnesses filed.

June 12—Plaintiff's tentative list of exhibits filed.

June 12—Working Model of plfs' proposed plan of desegregation filed.

June 12—Deposition of Dr. Howard O. Sullins rec'd.

June 17—Proposed Plan and Concepts for Desegregation on behalf of intervenors Robert Bain et al, Bellevue-

Ginter Area Civic Assn. and Sherwood Park Civic Assn., filed.

June 18—Motion to Quash Subpoena for Production of Documentary Evidence filed by atty. for Goodykoontz.

June 18—Motion to Quash Subpoena for Production of Documentary Evidence filed by atty. for Gould.

June 18—Request for Substitution of Attorneys filed by atty. for plaintiffs and endorsed by attys.

June 18—Motion for Injunction pendente lite filed by plaintiffs.

June 18—List of Authorities filed by Intervenor Bellevue-Ginter, et al.

June 18—List of Intervenors' Exhibits filed by atty. for Intervenors.

June 18—Qualification of Intervenors witnesses filed.

June 18—Intervenors' Tentative List of Witnesses.

June 18—Reference Information to be Relied upon by Intervenors filed.

June 18—List of Legal Authorities to be relied upon by Noel Austin and others who join with him as intervenors during trial filed by Noel Austin et al.

June 19—Working Model of Plaintiffs proposed plan of desegregation (Junior and Senior High Schools filed by atty. for plaintiffs (LG)

June 19—Plaintiffs Memorandum of Points and Authorities filed. (LG)

June 19—Plaintiffs' Exhibits of Overlays for Junior and Senior High Schools filed. (LG)

June 19—Affidavits of K. Lawrence Gould & C. A. Goodykoontz in support of their motions to quash subpoena for production of documentary evidence, rec'd, filed. PV

June 19—Trial Proceedings: Merhige, J. Appearances: Parties and by counsel. Motion by counsel for witnesses Goodykoontz & Gould to quash notice of subpoena duces tecum argued. Motion partially granted. Deft adduced evidence. Intervenor Ginter-Sherwood's motion to strike evidence of Dr. Sullins, taken under Advisement. Plaintiff's motion for temp. injunction taken under advisement.

June 20—Trial Proceedings, 2nd Day: Merhige, J. Appearances: Parties by counsel. Deft rested. Intervenor's motion to strike testimony of Dr. Sullins, denied, and motion for partial summary judgment under advisement. Plaintiff's motion for partial summary judgment under advisement. Plaintiff's motion for temp. injunction granted. F.F.C.L. from bench. Plaintiff adduced evidence.

June 22—Trial Proceedings: Merhige, J. Appearances: Parties by counsel. 3rd Day. Plaintiff adduced further evidence.

June 22—Memorandum of the Court filed. (LG)

June 22—Order restraining defts. from school construction within City of Richmond. Injunction exempts renovation at Thomas Jefferson & Maggie Walker High Schools and trade training center. Specifically enjoins construction of elem. schools referred to in the Memorandum; this injunction to remain in force during pendency of litigation; ent. nunc pro tunc June 20, 1970, 2:15 P.M. and filed. Copies mailed as directed. (LG)

June 22—Plaintiffs' Proposed Plan of Desegregation filed. (lg)

June 24—Motion for Joinder of Parties Defendant filed (LG)

June 24—Memorandum in support of motion for joinder of parties defendant (LG)

June 24—Trial Proceedings: (4th Day) Merhige, J. Appearances: Parties and by counsel. Plaintiff adduced further evidence. Plaintiff's motion for joinder of parties taken under advisement.

June 25—Trial Proceedings: (5th Day) Merhige, J. Appearances: Parties and by counsel. Plaintiff adduced evidence, rested. Intervenors adduced evidence, rested. Rebuttal. Sur-rebuttal.

June 26—Trial Proceedings: Merhige, J. Appearances: Parties and by counsel. (6th Day) Evidence concluded. The School Board's plan is rejected. The plaintiff's plan taken under advisement. The School Board must file a new plan on or before July 27, 1970, Exceptions to new plan when filed must be made on or before 8-3-70, and a hearing if necessary will be held on 8-7-70. Plaintiff's motion for joinder of parties, granted.

June 26—Minutes of court filed.

June 26—Order that the City Council for the City of Richmond, Va. are hereby joined as party defendants in this cause, entered, filed. Copies served by Marshal.

June 26—Current list of defendants' exhibits filed. (LG)

June 26—Order: 1) plan of deft. school board disapproved; 2) pltfs & intervenors' proposed plans taken under advisement 3) defts to submit plan to conform to requirements of law enunciated by U.S.C.A., 4th Circuit; 4) exceptions to be filed by 8/3/70; hearing on same to be held on 8/7/70, 9:30 A.M.; 5) all parties F.F. & C.L. to

be filed by 4:00 PM 7/20/70; ent. 6/26/70 and filed. Copies mailed to all attys. of record. (LG)

July 1—Marshal's return on order of 6-26-70, executed as to members of City Council, filed.

July 2—Motion for adequate desegregation provisions to begin filed by atty, for pltfs. (LG)

July 6—Letter of court to counsel for plfs. filed. Copies of letter mailed by Special Delivery to all counsel of record (local).

July 6—Order granting leave to any party interested to file a brief, as amicus curiae, on or before 7-20-70; granting leave to plfs., defts. and intervenors to file such reply brief thereto as they may deem appropriate on or before 8-3-70, ent. 7-6-30. Copies mailed counsel of record.

July 15—Copy of Transcript of Proceedings of June 19, 1970 (VOL. I) rec'd from Martest Otwell, court reporter and filed (LG)

July 16—Copy of Transcript of Proceedings of June 20, 1970 (VOL. II) rec'd from Martest Otwell, court reporter and filed (LG)

July 16—Copy of Transcript of Proceedings of June 22, 1970 (VOL. III) rec'd from Martest Otwell, court reporter and filed (LG)

July 16—Copy of Transcript of Proceedings of June 24, 1970 (VOL. IV) rec'd from Martest Otwell, court rereporter and filed (LG)

July 20—Reporter's transcript of evidence, June 25, 1970, Vol. V, filed.

July 20—Reporter's transcript of evidence, June 26, 1970, Vol. VI, filed.

July 21—Proposed Plan for a Unitary School System filed by James W. Payne, Jr., Amicus Curiae. PV

July 23—Report and Motion filed by City of Richmond.

July 23—Plan of Richmond City School Board, with Exhibits attached, filed.

July 23—Motion for leave to file third party complaint against School Board of Chesterfield County and School Board of Henrico County, filed by City of Richmond.

July 24—Motion for Injunction Pendente Lite filed by Noel Austin and others, who have joined with him as intervenors, filed.

July 24—Memorandum of Points and Authorities in support of motion for injunction pendente lite, filed by Noel Austin and others.

July 24—Outline submitted by Bi-racial organization to Richmond City School Administration and Richmond City School Board, filed 7-24-70. EEB

July 27—Plfs' Memorandum Findings of Fact and Conclusions of Law, filed.

July 27—Defd'ts proposed findings of Fact & Conclusions of Law, filed. jp

July 29—Motion to continue the case at bar and to order no transportation of children to achieve racial balance, filed by City of Richmond. jp

July 31—Motion for withdrawal of appearance filed by Attorney Henry Wickham, counsel for defendant Richmond School Board. pv

Aug. 3—Exceptions & Objections to proposed school board plan by Intervenors Bellevue-Ginter, et al. JP

Aug. 4—Motion for proposed plan pending Supreme Court Resolution filed by intervenors Bellevue-Ginter et al.

Aug. 4—Objections to Defendants' Proposed Plan filed. JP

Aug. 4—Exceptions of Noel Austin and others who join with him as intervenors to the Plan filed by plfs. for operation of schools for the school year 1970-71, filed.

Aug. 4—Motion to dismiss class action filed by intervenors, Noel Austin et al.

Aug. 4—Memorandum of Points and Authorities in support of Motion to dismiss filed by Noel Austin et als, intervenors.

Aug. 4—Memorandum of Points and Authorities in support of Exceptions to plf's plan, filed by Noel Austin et als.

Aug. 4—Motion to dissolve injunction against further school construction, filed by intervenors Noel Austin et al.

Aug. 5—Motion to Dissolve Injunction entered 6/20/70 with respect to proposed middle school in Northside filed by Intervenors, Bellevue-Ginter, et al.(lg)

Aug. 4—Objections to defts' proposed plan filed by plfs.

Aug. 6—Order that: 1) no person be permitted in courtroom after 8:00 AM except on following: a- all spectators must be seated at all times in Courtroom; b) no person to speak while Court in session on Aug. 7, 1970 c- persons if leaving courtroom must leave in quiet manner; d- persons ent. Courtroom to obey officers of the Court; e- no packages permitted in courtroom; 2) persons not seated in courtroom may wait in corridor and comply strictly with orders; no persons to obstruct doorways; all persons subject to orders of court officers; no cameras, or sound recording devices allowed; ent. 8/6/70 and filed.

Copies posted in conspicuous places in the Court Building. (lg)

Aug. 10—Findings of Fact Requested by Noel Austin and others who join with him as Intervenors, filed.

Aug. 11—Findings of Fact and Conclusions of Law proposed by Westover Hills PTA, Intervenor, filed.

Aug. 7—Trial Proceedings: Merhige, J. Parties and by counsel (see minutes for list of counsel). Additional authority on motion to dismiss filed in open court by Austin, et al. Motion by Henry T. Wickham to withdraw as counsel for school board granted. Motion by city of Richmond for a continuance argued. Motion denied. Motion by school board to file third party complaint argued. Motion granted. School board granted permission to withdraw third party complaint heretofore filed. Motion to dismiss by Austin, et al, argued. Motion denied. Defendants adduced evidence on their plan. Defendants' motion to lift injunction on school construction denied. Closing arguments. Case continued generally. (RFF)

Aug. 12—Defendants' amended findings of fact and conclusions of law filed gnb

Aug. 14—Reporter's transcript of proceedings on 8-7-70, filed.

Aug. 17—Pairing of Stuart & Highland Park Elementary proposed by atty. for Bellevue-Ginter letter filed. (lg)

Aug. 17—Memorandum of the Court filed. (lg)

Aug. 17—Order: 1) that deft. school board's plan, filed 7/23/70 for term commencing 8/31/70 be approved, except as hereinafter set out; 2) Leave granted to Supt. of Schools, upon appl. of parent of member of minority race therein, to transfer to less racially identifiable school:

Baker, Broad Rock, Carver, Chimborazo, Fairmont, Greene, Norrel & Annex, Whitcomb Court; 3) faculty & staff shall be assigned so each school racial ratio shall be same as ratio throughout system, with exceptions for spec. faculty positions; 4) deft. shall furnish upon request transportation in accordance with provisions styled "Summary" pertaining thereto; 5) Defts. to file with Court within 90 days from this date, a report setting out steps to create unitary system & earliest practical & reasonable date same could be put into effect; 6) Counsel for plfts & deft. school board are directed to confer as to payment of counsel fees & costs, & report to Court within 45 days; ent. 8/17/70 and filed. Copies mailed as directed. (LG)

Aug. 18—Reporter's transcript of evidence of 6-26-70, Volume VI, filed.

Aug. 19—Notice of Appeal filed by Carolyn Bradley and Michael Bradley, and other plfs.,

Aug. 19—Appeal Undertaking in sum of $250. executed, filed.

Aug. 19—Clerk mailed notice to counsel under Local Rule 31

Aug. 21—Designation of record on appeal filed by plaintiff.

Aug. 26—Notice of Appeal filed by City of Richmond.

Aug. 26—Motion of deft., City of Richmond, for stay of judgment and relief pending appeal, filed.

Aug. 28—Plaintiffs Memorandum in opposition to motion for stay of City of Richmond filed, Rec'd in Norfolk Aug. 27, 1970. lg

Aug. 28—Notice of Motion before Judge Haynsworth filed by City Attorney, to U.S. Ct. of Appeals.

Aug. 28—Motion of deft. City of Richmond for Stay of Judgment and Relief/pending appeal, filed.

Aug. 28—Motion of deft., City of Richmond for stay of judgment and relief pending appeal, to Supreme Court of U.S., filed.

Sep. 1—Notice of appeal from order entered August 17, 1970 by this court filed by defendant School Board, City of Richmond, Va. pv.

Sep. 8—Notice of appeal from order of Aug. 17, 1970, filed by Bellevue-Ginter Area Civic Assn., and Sherwood Park Civic Assn., and Robert Douglas Bain, et cl, intervenors.

Sep. 9—Notice of Appeal filed by Noel Austin and others who join with him as intervenors filed.

Sep. 9—Appeal Undertaking filed by Noel Austin and others.

Sept. 16—Motion to require deft. to file school enrollment report filed by plaintiffs. lg

Sep. 25—Appeal Record. Vol. A and Vols. 1 thru 13 and exhibits delivered to Clerk, USCA (Plf. $12.30)

Oct. 22—School attendance figures showing enrollment of 9-25-70 filed. MLS

Nov. 4—Notice of Motion to Compel Joinder, filed by deft. School Board. (LG)

Nov. 4—Motion to Compel Joinder of Parties needed for Just Adjudication under Rule 19 filed by deft. School Board. (LG)

Nov. 4—Memorandum of Points & Authorities in support of motion to compel joinder, filed by attys. for deft. school board. (LG)

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Nov. 16—Report from School Board of City of Richmond, filed. (LG)

Nov. 18—In Open Court: Merhige, J. Appearances: parties by counsel. Motion by defendants to lift injunction against building new schools denied by court. Joinder parties given until Dec. 3, 1970 at 9:00 AM to file memorandums. Motion to Compel Joinder of Parties taken under advisement pending receipt of memorandums.

Dec. 3—Brief in Opposition to Motion to Compel Joinder, filed jointly on behalf of State Bd. of Education, State Supt. of Pub. Instruction, Board of Supervisors of Chesterfield Co. & Board of Supervisors of Henrico County, filed by Atty. General. LG

Dec. 4—Deposition of (and Gordon Foster) Thomas Little, with exhibits, rec'd and filed. (LG)

Dec. 4— Order allowing parties to file within 20 days memoranda addressed to request of deft. school board, made at hearing of 11/18/70, to lift court's injunction ent. 6/20/70; parties to inform court within 20 days if they do not consent to disposition of that motion; ent 12/4/70 & filed. Copies mailed counsel. LG

Dec. 5—Order directing Joinder of Parties needed for just Adjudication & Providing for Further Pleadings; plfts allowed to file by Monday, 12/14/70 12:00 noon, amended complaint; U.S. Marshal to serve copies of order and memorandum to added parties; ent. 12/5/70 and filed. Copies mailed as directed. Copies del'd to U.S. Marshal for service of parties listed in Paragraph 1.

Dec. 5—Memorandum of the Court filed. LG

Dec. 9—Plaintiff's motion for implementation of plan and authorities in support thereof, rec'd, filed. pv

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Dec. 14—Plaintiffs Amended Complaint and list of defendants to be served, filed by Atty. for Plaintiffs. LG

Dec. 14—Copies of Amended Complaint and list of defts. to be served, del'd to U.S. Marshal for service. LG

Dec. 22—Interrogatories filed by deft. School Board of City of Richmond. MLS

Dec. 22—Interrogatories filed by deft School Board of City of Richmond. MLS

Dec. 23—Request to Produce on behalf of deft. School Board of City of Richmond, filed. MLS

Dec. 23—Request to Produce on behalf of deft. School Board of City of Richmond, filed. MLS

Dec. 24—Deft's Memorandum in support of lifting of injunction of further school construction filed by deft., Richmond City School Board. MLS

Dec. 29—Plaintiffs' Memorandum in Opposition to Motion to Dissolve Construction Injunction, filed by atty. for pltfs. (LG)

Dec. 30—Notice of Motion by School Board of City of Richmond. MLS

Dec. 30—Motion for order requiring defts. School Boards of Henrico Co. and Chesterfield Co. to produce certain maps on or before 1-29-71, filed by School Board of City of Richmond. MLS

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Jan. 4—Motion to dismiss amended complaint filed by defts. MLS

Jan. 4—Motion to Recuse filed by defts., with Certificates of Counsel supporting Affidavit; Affidavits attached, to-

wit: J. Ruffin Apperson, Herbert O. Browning, F. F. Deitsch, Irvin G. Horner, A. R. Martin, C. J. Burdy, C. Kemper Lorraine, Anthony P. Mehfoud, Edwin H. Ragsdale, L. R. Shadwell, Linwood E. Toombs, Clarence E. Curtis, Jr., G. L. Crump, Robert P. Eagles, John W. Russell, C. C. Wells, S. Cecil Children, Mrs. John L. Deusebio, Cecil F. Jones, Mrs. W. B. McMullin, Oliver J. Sands, Jr., and Walter C. Whitt, filed. MLS

Jan. 7—Memorandum of Points and Authorities in Opposition to Motion to Dismiss Amended Complaint, filed by Pltfs. (LG)

Jan. 8—Response of plfs. to motion to recuse, filed. MLS

Jan. 8—In Open Court: Merhige, J. Appearances: Parties with counsel. Motion to recuse, argues, F.F.C.L. from the bench—motion denied. Motion by defts. Henrico and Chesterfield to dismiss amended complaint taken under advisement. Deft. Chesterfield's Motion to Stay Proceedings, Denied. Defts. Henrico and Chesterfield to File Answers within 7 days. Richmond School Bd's motion for production of maps by January 29, 1971, Granted; as to items 1, 2 and 3 and Item 4 by February 15, 1971. Deft. Richmond School Board's Motion to Compel Answers to Interrogatories to Henrico and Chesterfield Counties, Granted—Interrogatories to be answered within 15 days. Trial Date Set: April 26, 1971, 3 weeks. All Memorandums on motion for 3 Judge to be filed within 2 weeks. Discovery cut-off date: April 1, 1971—Pre-Trial Conference: February 16, 1971, 9:00 AM.

Jan. 8—Motion to Convene Three-Judge Court filed by defts. State Board of Education; Chesterfield County Board of Supervisors; Chesterfield Co. School Board; Board of Supervisors and School Board of Henrico County, filed in Open Court.

Jan. 8—Motion for More Definite Statement of Claim, filed by defts.—Members, State Board of Education and Supt. Public Instruction. lg

Jan. 8—Motion to require pltfs to furnish defts. Bd. of Supervisors & School Bds. Henrico & Chesterfield; School of Bd. of Henrico, copies of pleadings Filed. (LG)

Jan. 8—Motion by defts. members of State Bd. of Educ., Supt. Public Instr, members of Boards of Supervisors and School Bds. of Chesterfield Co. & Henrico Co., to drop them as parties defendant in individual capacities & strike parts of amended complaint, filed.

Jan. 13—Order denying motion to recuse; ruling on motion to dismiss is postponed until trial and defts directed to file answers within 7 days; motion to convene 3-judge court under advisement; defts' motions for more definite statement be denied; time for Chesterfield Co. to produce spot maps extended to 2/15/71; except portion of request in paragraphs Nos. 1, 2 & 3 which defts. to file by 1/29/71; Chesterfield School Board to file answers to Interrogatories dated 12/22/70 within 15 days; denying motion to stay proceedings; debts' motion to require pltfs to furnish copies of pleadings, denied; cause set for trial April 26, 1971, 10:00 A.M.; pre-trial discovery due by April 1, 1971; pre-trial conference set for Feb. 16, 1971 9:00 AM; ent 1/13/71 and filed. lg

Jan. 13—Memorandum of the Court filed. lg

Jan. 13—Order allowing parties to file within 10 days memoranda; ent 1/13/71 and filed. Copies mailed as directed. LG

Jan. 15—Answer of City Council of the City of Richmond to Amended complaint filed. MLS

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Jan. 15—Answer of the Board of Supervisors of Chesterfield County and the individual members thereof to the amended complaint, filed. MLS

Jan. 15—Answer of the School Board of Chesterfield County and its members, and Robert F. Kelley, Supt of schools of Chesterfield County, filed MLS

Jan. 15—Answer of the School Board of Henrico County, The Board of Supervisors of Henrico Co., the individual members thereof, and the Division Supt of Schools of Henrico Co., filed. MLS

Jan. 15—Memorandum in support of motion to convene a three judge court filed by State Board of Education and Supt of Public Instruction and Board of Supervisors of Chesterfield Co.; School Board of Chesterfield Co. and Board of Supervisors and School Bd of Henrico Co., filed. MLS

Jan. 15—Answer of defts. (members of State Board of Education and Dr. Wilkerson, Supt of Public Instruction, to amended complaint), filed. MLS

Jan. 15—Answer to amended complaint and Cross Claim filed by School Board of City of Richmond, filed. MLS

Jan. 15—Plan of School Board of City of Richmond, filed. MLS & Maps

Jan. 18—Plaintiffs' response to motions filed 1-8-71, filed. MLS

Jan. 19—Opinion delivered from the bench Jan. 8, 1971 filed 1-19-71. MLS

Jan. 21—Three transportation tables incident to Plan 3, filed by deft. School Board of City of Richmond. (LG)

Jan. 22—Answers to Interrogatories filed by Dr. Campbell, Supt of Schools of Henrico County, Va. MLS

Jan. 22—Memorandum in support of motion to drop additional parties in their individual capacities, filed jp

Jan. 22—Response of School Board of Chesterfield County to motion to produce certain maps filed by School Board of City of Richmond, with three maps filed; the maps requested in this interrogatory being in process of preparation and will be filed within the time allowed by the court. MLS

Jan. 22—The Response of the School Board of Chesterfield Co., Va. to Interrogatories propounded by School Board of the City of Richmond, with Interrogatories 1 and 5; 6, 8, 9, 10, 12, 14, and 16, filed. MLS

Jan. 25—Request to Produce, filed by plf. MLS

Jan. 25—Statement in support of motion to file response to request to produce, filed by plf. MLS

Jan. 25—Motion requiring deft. Va. State Board of Education to file its response to Request to Produce, filed by plfs. MLS

Jan. 28—Response to Interrogatories Nos 1, 5, 6, 8, 9, 10, 12, 14 and 16, filed by deft. Chesterfield Co. School Board. (LG)

Jan. 28—Response to Interrogatories Nos. 1, 2, 3, 5, 4, 10, 12, 11, 13, 14 and 18, filed by deft. Henrico Co. School Board. (LG)

Jan. 29—Response of the School Board of Henrico County, Va., to request to produce documents filed by School Board of City of Richmond, Va., filed. MLS Maps requested filed with this response. MLS

Jan. 29—Memorandum of the court filed.

Jan. 29—Order denying motion for implementation of Plan, ent. 1-29-71. Copies mailed counsel. MLS

Jan. 29—Memorandum of the court filed.

Jan. 29—Order vacating injunction in part, allowing construction of certain schools; otherwise the order of 6-20-70 remains in full force and effect, ent. 1-20-71. Copies mailed counsel. MLS

Feb. 2—Order for deft. Va. State Bd. of Education to file on or before 9:30 AM Feb. 5, 1971 Rule 34(b) Responses to pltfs request to produce ent 2/2/71 and filed. Copies mailed to counsel of record. (LG)

Feb. 4—Answer of School Board of Chesterfield County to Cross-Claim of Richmond School Board, filed by atty. for Chesterfield Co. Sch. Board. (LG)

Feb. 4—Answer of School Board of Chesterfield County to Cross-Claim of Richmond School Board, filed by attorney, Walter E. Rogers. JP

Feb. 4—Answer to Cross-Claim filed by County of Henrico, by J. Mercer White, Jr. jp

Feb. 4—Answer to Cross-Claim filed by Attorney General, Andrew P. Miller, filed. jp

Feb. 5—Response to request to produce filed by William Broaddus, Commonwealth of Va. jp

Feb. 5—Notice Of Appeal from Order of 29 Jan 1971 filed by plaintiffs ($5.00 paid). Clerk mailed copies to each of counsel for defendants listed on docket sheet.

Feb. 10—Petition of Va. Ass'n of Counties to appear as Amicus Curiae, rec'd, filed. pv

Feb. 10—Memorandum of the Court filed.

Feb. 10—Order denying motion for convening of three-judge court ent 2/10/71 and filed. Copies mailed as directed. (LG)

Feb. 10—Memorandum of the Court filed. (LG)

Feb. 10—Order denying motion to drop additional parties in their individual capacities; ent. 2/10/71 and filed. Copies mailed counsel of record. (LG)

Feb. 15—Request of School Board of City of Richmond that defendant, School Board of Henrico County produce and permit inspection and copying, filed. gnb

Feb. 16—Motion of parents & children attending Chesterfield Co. Schools to Intervene, filed by atty. for deft. Chesterfield. (LG)

Feb. 16—Answer of Intervenors, parents & children attending school in Chesterfield, to Amended Bill of Complaint, filed. (LG)

Feb. 16—Memorandum in Support of Motin to Intervene, filed by Chesterfield Co. (LG)

Feb. 16—In Open Court: Merhige, J. Appearances: Parties and by counsel. Pre-trial conference held. Plaintiffs to file objections to School Board plans 2 & 3 within 10 days. Hearing on plans to be held on 3-4-71 at 10:00 A.M. Exhibits and list to be filed with clerk on or before 4-16-71, objections to same to be filed by 4-21-71. List of trial witnesses to be filed by 4-21-71. Lists of any portions of depositions or interrogatories to be filed by 4-21-71.

Feb. 16—Motion to Compel Inspection with supporting memorandum, filed by plaintiff. (LG)

Feb. 16—Interrogatories to Carolyn Bradley filed by Board of Supervisors of Chesterfield Co. MLS

Feb. 16—Interrogatories to School Board of City of Richmond filed by Board of Supervisors of Chesterfield Co. MLS

Feb. 16—Further response of the School Board of Chesterfield County to Motion of the School Board of the City of Richmond to Produce Documents, with 14 maps, giving information requested, filed. MLS

Feb. 17—Second Pre-Trial Order; hearing on objections 3/4/71, 10:00 AM; briefs amicus curiae due April 12, 1971; discovery procedures outlines; conference for stipulations April 16, 1971, 10:00 AM; exhibits due April 20, 1971 and lists; and list of witnesses with statement of testimony; counsel to file stipulations; list of depositions' portions due by April 21, 1971; ent 2/17/71 and filed. Copies mailed counsel of record. (LG)

Feb. 22—Response of Henrico County School Board to Request of the Richmond School Board to Produce Documents, filed by atty. for Henrico. (LG)

Feb. 23—Request to produce certain documents filed by deft. School Board of City of Richmond, filed. MLS

Feb. 23—Motion for Extension of time to file additional authorities, filed by atty. for proposed intervenors. (LG)

Feb. 23—Order extending time until March 2, 1971 for proposed intervenors to file authorities in support of their motion ent 2/23/71 and filed. Copies mailed counsel of record. (LG)

Feb. 24—Motion to withdraw as intervenor, filed by atty. for Westover Hills PTA. (LG)

Feb. 25—Interrogatories to Board of Supervisors of Henrico Co., filed by plfs. MLS

Feb. 25—Interrogatories to the Board of Supervisors of Chesterfield County, Va. filed by plfs. MLS

Feb. 25—Interrogatories to School Board of Chesterfield Co., filed by plfs. MLS

Feb. 25—Interrogatories to School Board of Henrico Co., Va., filed by plfs. MLS

Feb. 25—Notice of hearing on motion for payment of costs and attorney fees, filed by plfs. MLS

Feb. 26—Objections of plfs. to Plans of Desegregation submitted by School Board of Richmond, filed. MLS

Feb. 26—Exceptions of Noel Austin and others who join with him as Intervenors to Plan II and Plan III filed by The School Board of the City of Richmond for the Operation of Schools for the 1971-1972 School Year, filed. MLS

Feb. 26—Objections and exceptions to plans II & III, submitted by School Board, City of Richmond, filed by Intervenor Bain, et al, rec'd, filed. pv.

March 2—Order extending time for docketing appeal record for 90 days ent 3/2/71 and filed.

March 2—Memorandum in Support of Motion of Parents and Children, Resident of Chesterfield Co. to Intervene, filed by atty for Intervenors (Parents, Children, Chesterfield) LG

March 2—Interrogatories to plaintiffs, filed by atty. for deft. Henrico Bd. of Supervisors. LG

March 2—Interrogatories to Richmond City School Board, filed by deft. Henrico Bd. of Supervisors. (LG)

March 3—Request to deft. Board of Supervisors of Henrico Co. to produce certain documents, filed by deft School Board of City of Richmond. MLS

March 3—Request to deft. School Board of Chesterfield County to produce certain documents, filed by deft. School Board of City of Richmond. MLS

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March 3—Request to deft. Board of Supervisors of Chesterfield County to produce certain documents filed by deft. School Board of City of Richmond. MLS

March 3—Request to deft. School Board of Henrico Co. to produce certain documents, filed by deft. School Board of City of Richmond. MLS

March 4—In Open Court: Merhige, J. Appearances: Parties and by counsel. Case came on for hearing on objections to School Board's Plans I, II, & III. Case retained under advisement by court.

March 5—Memorandum in support of Motion for counsel fees, filed by plaintiff. pv.

March 8—Certified copy of order of U.S.C.A. entered 5 Mch 1971 decreeing that case be docketed upon a certified copy of the docket entries, a certified copy of the notice of appeal, and a certified copy of the order and memorandum of January 29, 1971, together with such parts of the original record as the District Court shall allow and copies of such parts as the parties may designate subject to the right of appellate court at any time during the pendancy of the appeal to order that the record be transmitted; that partial record be transmitted within the time allowed by Rule 11(a), F.R.A.P., etc., Received and filed.

March 9—Certified copies of: docket entries, notice of appeal and memorandum of Jan. 29, 1971 (partial record) delivered to Clerk USCA.

March 9—Interrogatories to School Board of Chesterfield Co., filed by School Board of City of Richmond, Va. MLS

March 9—Interrogatories to School Board of Henrico Co., filed by School Board of City of Richmond. MLS

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March 10—Order providing for further memoranda and evidentiary materials on plaintiffs' motion for award of costs and attorneys' fees, ent. 3-10-71. Copies mailed all counsel of record. MLS

March 11—Response of Chesterfield County School Board to Interrogatories propounded by Plaintiffs with attachments, filed. (LG)

March 11—Response of School Board of Henrico County to request of School Board of City of Richmond to produce documents, filed. MLS

March 11—Response of the Board of Supervisors of Henrico County to request of the School Board of the City of Richmond to produce documents, filed. MLS

March 12—Memorandum submitted on behalf of Bellevue-Ginter Intervenors, pursuant to court's order of 3-10-71, filed. MLS

March 12—Response of Board of Supervisors of Chesterfield Co., to request of School Board of City of Richmond to produce documents, filed. MLS

March 15—Supplemental memorandum in support of motion for attorneys' fees and expenses of the action, filed by plfs. MLS

March 15—Memorandum on plf's motion for award of costs and attorneys' fees filed by Noel Austin and others who join with him as intervenors, filed. MLS

March 15—Deft., School Board of City of Richmond, Memorandum Supporting denial of pltfs. request for award of fees and costs, filed. LG

March 15—Deft's., School Bd. of Richmond, Memorandum supporting denial of pltfs' request for award of fees and costs, filed. LG

March 16—Response of School Bd. of Chesterfield to Request to Produce documents filed by Richmond School Bd., Filed by atty. for deft. Chesterfield Co. School Bd. LG

March 18—Answers to Interrogatories filed by deft. School Bd. of City of Richmond. JP

March 19—Interrogatories to plfs. filed by deft. School Board of Chesterfield County. MLS

March 19—Interrogatories to School Board of City of Richmond filed by School Board of Chesterfield Co. MLS

March 22—Request for admissions, to plfs., filed by deft. School Board of County of Chesterfield. MLS

March 22—Request for Admissions to deft School Board of City of Richmond filed by School Board of Chesterfield County. MLS

March 22—Motion to produce by plfs., filed by deft School Board of Chesterfield. MLS

March 22—Motion to produce by School Board of City of Richmond, filed by deft School Board of Chesterfield. MLS

March 23—Answers to Interrogatories filed by Attorney for plaintiffs. JP

March 25—Interrogatories filed by The State Board of Education and Dr. Woodrow W. Wilkerson. MLS

March 25—Answers to Interrogatories served by deft Board of Supervisors of Henrico Co., filed by deft. School Board of City of Richmond, with interrogatories 1-5 attached. MLS

March 26—Attendance ratios under the Foster Plan, filed by Counsel for Richmond School Board ent. 3-26-1971 and filed. EEB, Copies mailed to counsel (15)

March 29—Interrogatories from State Board of Education to School Board of the City of Richmond rec'd, filed. pv.

March 26—Answers to Interrogatories filed by Edward A. Beck, County Manager of Henrico County of Virginia, filed 3-26-1971 EEB (taken to Judges Chambers to be placed in file).

March 26—Interrogatories to The Board of Supervisors of Henrico County, filed by School Board of the County of Henrico, Virginia and the Board of County Supervisors of Henrico County. EEB. (taken to Judge's Chambers to be placed in file)

March 26—Answers to Interrogatories filed by Dr. W. E. Campbell, Superintendent of Schools of Henrico County, Virgina. EEB (taken to Judge's Chambers to be placed in file). EEB

March 30—Answer of Richmond School Board to Chesterfield School Bd. request to produce, filed. LG

March 30—Interrogatories to Chesterfield Co. School Board, filed by atty. for Richmond Sch. Board. (LG)

March 30—Interrogatories to Henrico Co. School Board, filed by atty. for Richmond School Board. (LG)

April 1—Interrogatories to Richmond School Board, filed by deft. Chesterfield Sch. Bd. LG

April 1—Interrogatories to pltf. Carolyn Bradley, et al, filed by deft. Chesterfield County School Board. (LG)

April 1—Response to Request for Admission filed by Counsel, George B. Little. JP

April 2—Motion of plfs. for deft. Board of Supervisors of Chesterfield Co., to produce certain reports, etc., filed. MLS

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April 2—Motion of plfs. for deft. Board of Supervisors of Henrico County to produce certain reports, etc., filed. MLS

April 5—Memorandum of the Court filed. LG

April 5—Order substituting Lucien D. Adams, as party deft for Willett; Richmond School Board et al to commence conversion under desegregation plan 3; ent 4/5/71 & filed. Copies mailed counsel of record. (LG)

April 1—Deft Board of Supervisors of Henrico County and County School Board of Henrico County interrogatories to plaintiffs rec'd, filed. pv.

April 5—Answer to interrogatories served upon it by p'lfs., filed by deft. Board of Supervisors of Chesterfield County. MLS

April 7—Deft Richmond School Board's motion for modification of order of 4-5-71, Filed.

April 7—In Open Court: Merhige, J. Appearances: Deft Richmond School Board by counsel. Deft Richmond School Board's motion for modification of Court's order of April 5, 1971 argued. Motion taken under advisement.

April 7—Motion of defendant, City of Richmond, for stay of judgment & relief, filed, pv.

April 7—Motion of defendant, City of Richmond, for stay of judgment & relief, filed. pv.

April 7—Notice of Appeal from order of District Court of April 5, 1971, filed by deft. City of Richmond. pv.

April 7—Telegram from attorney for plaintiffs in opposition to motion for stay of deft City of Richmond, rec'd, filed. pv.

April 7—In Open Court: Merhige, J. Appearances: Counsel for deft City of Richmond, Motion for stay of order of April 5, 1971, argued, denied.

April 7—Transcript of Order from Bench dated 4/7/71 & filed. Copies mailed counsel. LG

April 8—Notice under Local Rule 31 issued.

April 8—Answers to Interrogatories filed by Dr. W. E. Campbell, Supt of Schools of Henrico Co., Va., with attachments. MLS

April 8—Answer to Interrogatory propounded by School Board of City of Richmond on 3-8-71, filed by School Board of the County of Chesterfield. MLS

April 8—Answer to Interrogatory propounded to in on [*sic*] March 29, 1971, filed by School Board of Chesterfield Co. MLS

April 12—Response to Pltfs' Motion to Produce, filed by Chesterfield Bd. of Supervisors. LG

April 12—Response to Pltfs' Motion to Produce, filed by Henrico Bd. of Supervisors. LG

April 13—Deft School Board of Henrico County's answer to interrogatory rec'd, filed. pv.

April 14—Answers to interrogatories filed on behalf of Deft. Richmond School Board. pv.

April 16—Answer of defendant School Board, City of Richmond to State Board of Education's interrogatories, rec'd, filed. pv.

April 16—Motion to Compel Discovery; filed by State Board of Education & Dr. Wilkerson. LG

April 16—In Open Court: Merhige, J. Appearances: Parties and by counsel. Plaintiff's motion for continuance argued.

Motion denied. Parties returned to court, and certain deft's motions for continuance argued. Motion granted. Case re-set tentatively to begin on August 23, 1971. Cut off on discovery moved to 5-3-71 for plaintiff, and 5-17-71 for defts. Pre-trial to be held on May 3, 1971 at 10:00 A.M.

April 16—Deft State Board of Education's motion to compel discovery rec'd, filed. pv.

April 20—Plaintiffs' answers to interrogatories propounded by Board of Supervisors of Henrico County and County School Board of Henrico County on or about April 1, 1971, filed. gb

April 20—Plaintiffs' answers to interrogatories propounded by School Board of Chesterfield County on or about March 18, 1971, filed. gb

April 20—Plaintiffs' answers to interrogatories propounded by Board of Supervisors of Henrico County on or about March 2, 1971, filed. gb

April 20—Plaintiffs' answers to interrogatories propounded by School Board of Chesterfield County on or about March 31, 1971, filed. gb

April 20—Plaintiffs' answers to interrogatories propounded by State Board of Education and Dr. Woodrow W. Wilkerson on or about March 23, 1971, filed. gb

April 20—Plaintiffs' response to request for admissions addressed to them by the School Board of Chesterfield County on or about March 20, 1971, filed. gb

April 20—Plaintiffs' response to motion of School Board of Chesterfield County to produce, filed. gb

April 20—Plaintiffs' response to motion of school Board for modification of order of April 5, 1971, filed. gb

April 20—Certificate of service of above answers and responses, filed. gb

April 20—Notice to all counsel by counsel for plaintiffs, enclosing above answers, and notification of desire to refer to portions of testimony and exhibits rcvd. gnb

April 21—Order for pre-trial conference on Apr. 23, 1971 at 9:00 a.m., ent. & filed Apr. 21, 1971. Clerk mailed copies special delivery at 9:15 am to all counsel of record. gb

April 22—Supplemental Interrogatories to School Board of City of Richmond filed by State Board of Education and Dr. Woodrow W. Wilkerson, MLS

April 23—In Open Court: Merhige, J. appearances: Parties and by counsel. Pre-trial conference held. (1½ hrs.).

April 26—Transcript of proceedings of Apr 7, 1971 (orig & 1 cpy) received & filed. gb

April 27—Plfs' Proposed Supplemental Findings of Fact and Conclusions of Law filed 8-11-70

April 27—Third Pre-Trial Order ent.: trial of issues as yet unresolved shall commence on June 7, 1971; extending time for concluding discovery, including de bene esse depositions, for all parties to 5-21-71; pre-trial briefs to be filed on or before 5-25-71 by counsel for proponents of further relief by way of consolidation of school systems of Richmond and Henrico and/or Chesterfield; counsel for opponents of such relief shall file pre-trial briefs stating their legal contentions, with supporting citations, on or before 5-31-71; counsel for proponents of such relief shall file such reply briefs as they deem advisable on or before 6-4-71; in the event counsel cannot agree upon a time and place for a conference for purpose of

arriving at stipulations in order to limit the evidence necessary on trial, they shall meet in the grand jury room of this court on 5-24-71 at 10 a.m.; counsel shall at this time tender to each other such exhibits as each will offer at trial; counsel shall lodge with the Clerk on or before 6-2-71 all exhibits to be offered on trial; and a list of witnesses on this same date; stipulations arrived at before trial shall be filed in writing on or before 6-7-71; counsel shall file on or before 6-2-71, a list designating such portions of discovery materials expected to tender in evidence; and shall file on or before 5-24-71 a list designating such portions of prior record as they expect to offer as proof against any party who heretofore has had no opportunity to participate in the proceedings wherein such proof was made; on or before 6-2-71, counsel shall file a list of such portions, designated pursuant to paragraph 11, as to be offered against him, to which he objects as evidence; evidence offered on trial which has not been designated as herein required shall not be admitted save as rebuttal or impeachment evidence or for other good cause shown or upon agreement of the parties; counsel shall file proposed findings of fact and conclusions of law and a suggested final decree within seven days of conclusion of hearings herein; ent. 4-27-71. Copies mailed counsel of record. MLS

April 29—Motion for continuance filed by Deft Chesterfield County School Board. pv

April 29—in re: Appeal filed by City Council from Order of Apr. 5, 1971; Certified copies of Memorandum filed Apr. 5, 1971, Order filed Apr. 5, 1971, Motion for modification filed Apr. 7, 1971 and Notice of Appeal filed by City Council Apr. 7, 1971, delivered to Clerk, USCA, in lieu of appeal record at this time. gb

April 30—Cert. copy of order dismissing appeal # 15,180 recd. from Clerk, USCA & filed. LG

May 4—Consolidated Plan filed by School Board, City of Richmond. pv

May 4—Certified copy of order dismissing appeal, with each party bearing its own costs, rec'd from Clerk, USCA, filed. mls

May 5—Interrogatories to defts State Board of Education and Dr. Woodrow W. Wilkerson filed by deft School Board of City of Richmond. MLS

May 6—Copy of order of US Court of Appeals denying stay pending appeal, filed. gb

May 6—Copy of order of US Court of Appeals dismissing appeals pursuant to Rule 42(b) FRCP, filed. gb

May 6—Motion for Continuance, filed by State Bd. of Education & Dr. Wilkerson. LG

May 6—Notice of Motion for 5/10/71, 1:30 PM, filed by State Bd. of Ed. & Wilkerson. LG

May 6—Motion to Compel Answer to Interrogatories, filed by defts. State Board of Education and Dr. Wilkerson. LG

May 7—Notice of Motion for Continuance filed by counsel, Paul Byrne. JP

May 7—Notice of Motion for Order compelling answers to Interrogatories propounded to plaintiffs, filed. JP

May 7—Notice of Motion for continuance filed by counsel for defendant, & Motion for continuance.

May 7—Notice of Motion to Compel plaintiffs to answer interrogatories filed by counsel of defendant. JP

May 7—Notice of motion to be heard 5/10/71, 1:30 PM, filed by pltfs. LG

May 7—Motion for Continuance with supporting memorandum, filed by pltfs. LG

May 10—Notice & Motion by deft. School Bd. of Chesterfield Co., to compel plts. to answer interrogatories 1-12 & 14, filed. LG

May 10—Statement & Authority in Support of Motion, filed by Sch. Bd. of Chesterfield. LG

May 10—Answers to Interrogatories of State Bd. of Education, filed by deft. School Board of City of Richmond. LG

May 10—Certified copy of order dismissing appeal pursuant to Rule 42(b) of Federal Rules of Appellate Procedure, rec'd from Clerk, USCA, filed. MLS

May 10—Memorandum in Support of Motion for Continuance, filed by Chesterfield Co. School Board. LG

May 10—Copy of order of US Court of Appeals dismissing appeals dismissing pursuant Rule 42(b) FRCP, appeal filed by plaintiffs Sept 8, 1970, filed. gb

May 10—Notice of motion to dismiss cross-claim of Richmond School Board, rec'd, filed by deft State Board of education. pv.

May 10—Motion to dismiss cross-claim of Richmond School Board filed by Deft State Board of Education. pv.

May 17—In Open Court: Merhige, J. Appearances: Parties and by counsel. Defts' Henrico County and State Board of Education motion to compel further answers to interrogatories, over-ruled. Case re-set to begin August 16, 1971. Pre-trial order of April 27, 1971 amended as fol-

lows: Dates only changed: Para: 1:8-16-71 Para 2:6-28-71, Para: 3:7-12-71, Para: 4: 8-2-71, Para. 5: 8-9-71, Para: 6: 6-28-71, Para: 7: 7-15-71, Para: 8: 7-26-71, Para: 9: 7-26-71, Para: 10: 8-13-71, Para: 11: 7-19-71, Para 12: 6-14-71, Para: 13: 7-25-71, paragraphs 14, 15 & 16 remain same.

May 17—Order as set out in Court minutes above ent. 5/17/71 & filed. Copies mailed counsel. LG

May 21—Records of School Board of Richmond filed under seal. LG as per subpoena duces tecum.

May 21—Affidavits of J. Alan Hanover, Charles G. Black, David E. Kaywood, filed.

May 26—Order denying motion of deft., Richmond School Board, for modification of Order of 4/5/71; ent 5/26/71 and filed. Copies mailed counsel. LG

May 26—Memorandum of the Court filed.

May 26—Order directing School Board, Richmond to pay to pltfs' counsel, $56,419.65 for costs, fees, etc. from 3/10/71 through 1/29/71; ent 5/26/71 and filed. Copies mailed counsel of record. (LG)

May 27—Answers to Interrogatories filed by defts. State Bd. of Education and Dr. W. W. Wilkerson, filed. LG

May 27—Motion of City of Richmond for Modification of order of Apr 5, 1971 filed. gb

June 1—Order denying motion of the defendant, The City Council of the City of Richmond for modification of the Court's order of April 5, 1971, entered and filed. Copies mailed as directed. JP

June 2—Memorandum in support of motion to dismiss cross claim of Richmond School Board, filed. LG

1971 *Docket Entries*

June 16—Notice of Contempt Motion filed by plfs. MLS filed LG

June 16—Motion for Contempt filed by plfs. MLS

June 18—Notice of Appeal from order of 5-26-71, filed by The School Board of the City of Richmond. MLS

June 18—Notice and Motion for Stay of Order for payment of atty. fees, filed by deft. Richmond School Board, pending appeal. LG

June 21—In Open Court: Merhige, J. Appearances: Counsel—Louis R. Lucas & James R. Olphin for pltfs. Defts. Rich. School Board by George B. Little & James Clueverius. Motion for contempt by pltf, argued, denied. Motion by deft. for stay of Order of 5/26/71, argued, denied. Pltf. adduced evidence, rested. Motion by plaintiffs to assess fees for this hearing, granted. Order to be entered upon receipt of Court of pltfs. expenses in hearing.

June 22—Memorandum of Authorities in Support of deft's right to give supersedeas bond to stay the court's order of 5-26-71, pending appeal to USCA, filed by defts. MLS

June 22—Memorandum by the court re motion of plaintiffs that individual members of the defendant School Board be held in contempt for failure to comply with court's order of May 26, 1971, directing payment of counsel fees and motion for stay of order of May 26, 1971, filed. gb

June 22—Order on memorandum denying motion for stay, continuing order of May 26, 1971 in full force and effect, directing School Board to report to court whether they are in compliance with order of May 26, 1971, directing Marshal to serve copies of memorandum and order on each member of School Board and directing clerk to send copies of memorandum and order to all counsel of record, ent. & filed June 22, 1971. gb

June 22—Clerk mailed copies of memo. & order (above) as required and delivered certified copies to Marshal for service. gb

June 23—Notice of Motion to limit introduction of evidence at trial of this case, filed by School Board of Chesterfiled Co. MLS

June 23—Motion of The School Board and Board of Supervisors of Chesterfield County to limit introduction of evidence at the trial of this case, filed. MLS

June 23—Order directing at least one counsel for each of the parties to appear on June 28, 1971 at 10:00 a.m. for a final pretrial conference, entered and filed June 23, 1971. Clerk mailed copies to counsel of record at 10:36 am. gb

June 24—Marshal's return on Order dated June 22, 1971, served on members of the school board, executed and filed. JP

June 28—Request to produce all results of Va Statewide Testing Program for each school within Henrico Co., filed by deft School Board of City of Richmond. MLS

June 28—Request to produce results of Va Statewide Testing Program for each school within Chesterfield County, filed by deft School Board of City of Richmond. MLS

June 28—In Open Court: Merhige, J. Appearances: Parties by counsel. Deft. Chesterfield's County School Board's motion to limit evidence at trial, denied. Final motions to be heard on July 6, 1971 at 8:30 A.M.

July 1—Answers from Division Supts. to inquiries of State Bd. of Education on behalf of Richmond School Board, filed, with affidavit. (LG)

July 1—Supplemental Answers to Interrogatories, filed by

defts., State Bd. of Education & Dr. Woodrow W. Wilkerson. (LG)

July 1—Defendants' list of exhibits filed. gb

July 7—Statistical analysis dealing with recommended school attendance plan (previously filed with the court on 5-4-71) rec'd from Richmond School Board, filed. MLS

July 7—Motion to convene a three-judge court filed by defts. (re merger)

July 7—Memorandum in support of motion to convene a three-judge court, filed by defts. MLS

July 13—Plaintiffs' Memorandum in opposition to motion to convene three-judge court, filed, lg

July 13—Additional Answers from superintendent to inquiries made by State Board of Education, filed. lg

July 13—Affidavit re: State Board's Memorandum 6049 filed. lg

July 13—Memorandum in opposition to motion to convene three judge court filed by deft. Richmond Sch. Bd. gb

July 13—Plaintiffs' Pre-Trial Brief filed. LG

July 15—Tentative lists of Plaintiff's exhibits filed. pv.

July 15—Motion to extend time for transmitting record filed by deft. school Board, Richmond. lg

July 19—Designation of Discovery Material filed by eft. School Board of City of Richmond. MLS

July 19—Discovery Materials to be introduced filed by plfs. MLS

July 19—Discovery Materials designation filed by State Board of Education and Supt of Public Instruction. MLS

July 19—List of Discovery Materials to be tendered in evidence filed by Board of Supervisors of Chesterfield Co. MLS

July 19—Designation by School Board of Henrico Co. and Bd. of Supervisors of those portions of discovery material which they expect to tender in evidence, filed. MLS

July 21—Objection to evidence in prior proceedings filed by School Board of Chesterfield and Dr. R. F. Kelly, Supt. gb

July 21—Designation of discovery material filed by School Board of Chesterfield and Dr. R. F. Kelly, Supt. gb.

July 21—List of exhibits—School Board of Chesterfield County filed. gb

July 21—Objection to evidence in prior proceedings filed by Board of Supervisors of Henrico Co., School Board of Henrico Co., and all other Henrico Co. defts. MLS

July 21—Response of School Board of Henrico Co. to Request of School Board of City of Richmond to produce documents, filed. MLS

July 23—Memorandum of the court filed 7-20-71. MLS Copies mailed counsel 7-23-71

July 23—Order denying motion to convene a three-judge court ent. 7-20-71. Copies mailed counsel of record 7-23-71.

July 23—Defendant Richmond School Board list of Exhibits filed. gb

July 23—Objection to evidence in prior proceedings filed by Board of Supervisors of Chesterfield County. MLS

July 23—Response of School Board of Chesterfield Co. to Request of School Board of City of Richmond to produce Documents, filed. MLS

July 23—Plfs' Opposition to motion to extend time for transmitting record on appeal, filed. MLS

July 26—List of Exhibits, filed by Board of Supervisors of Chesterfield Co. MLS (Exhibits Attached)

July 26—Objections to Exhibits filed by The School Board of the City of Richmond, Va. MLS

July 26—List of Witnesses to be called 8-16-71, filed by deft. Richmond School Board. MLS

July 26—Objection to Evidence in Prior Proceedings filed by State Board of Education and Supt. of Public Instruction. MLS

July 26—Objection to Exhibits filed by State Board of Education and Supt of Public Instruction. MLS

July 26—List of Exhibits filed by State Board of Education and Supt of Public Inst. MLS

July 26—List of Exhibits, copies of proposed Exhibits 1, 2, 3 and 4, attached, filed. by State Board of Education and Supt of Public Instruction. MLS

July 26—List of witnesses on behalf of Board of Supervisors of Henrico Co. and School Board of Henrico Co., filed. MLS

July 26—List of expert witnesses on behalf of State Board of Education, Board of Supervisors of Henrico Co.; School Board of Henrico Co., the Board of Supervisors of Chesterfield Co. and School Board of Chesterfield Co., filed. MLS

July 26—List of Exhibits to be offered by the Board of Supervisors of Henrico Co., and the School Board of Henrico Co., and Henrico Exhibits 1-23, incl., filed. MLS

July 26—List of Witnesses—Board of Supervisors of Chesterfield Co and School Bd of Chesterfield Co., filed. MLS

July 26—Objections to Exhibits to be Offered in evidence by plfs. and by the School Board of City of Richmond, filed. MLS

July 26—Expert Witness—Qualifications, etc. filed by School Board and Supt of Schools of Chesterfield Co.; Board of Supervisors of Chesterfield Co., and Board of Supervisors of Henrico Co., and School Board and Supt of Schools of Henrico Co., filed. MLS

July 27—Order extending time to Aug 20, 1971 for docketing appeal, ent. & filed July 27, 1971 (Widener, J.) Copies mailed as directed. gb

July 30—Plaintiffs' tentative list of witnesses filed. gb

Aug. 2—Joint pre-trial brief, recd from defts. Henrico Co. Board of Supervisors, and Henrico School Board and Board of Supervisors and School Board of Chesterfield County. (LG)

Aug. 2—Pre-Trial Brief of State defts., recd. LG

Aug. 5—Additional responses of Supt's Memo. 6049, filed by State Board of Education. LG

Aug. 9—Reply Brief of School Board of City of Richmond rec'd. MLS

Aug. 10—Additional answers to Superintendent's Memorandum # 6049 filed. gb

Aug. 11—Reporter's transcript of proceedings of Jan. 8, 1971; Feb. 16, 1971; April 7, 1971; April 16, 1971; April 23, 1971; May 17, 1971; June 21, 1971; June 28, 1971 and July 15, 1971, filed. MLS

Aug. 12—Plaintiffs' Tentative List of Witnesses, filed. LG

Aug. 16—Intervenor Belleview-Ginter motion to withdraw, rec'd, filed. pv.

Aug. 16—Deft State Brd of Education motion to strike witness & quash subpoena, filed. pv.

Aug. 16—Order allowing Parents & Children of Chesterfield County to intervene, filed nunc pro tunc 4-16-71. pv

Aug. 16—Trial Proceedings: Merhige, J. Appearances: Parties and by counsel. Motion by Intervenor Noel Austin & Others to withdraw, granted. Plaintiff's motion to consolidate CA-3431-R with this case for trial, denied. Richmond School Board adduced evidence. Case cont'd to 8-17-71 at 10:00 A.M.

Aug. 17—Brief of Va. Ass'n of Counties, Amicus Curiae, filed. pv.

Aug. 17—Motion by Deft State Board of Education & Supt of Public Instruction to quash subpoenas duces tecum issued Aug. 13, 1971 for Andrew P. Miller, rec'd, filed. pv.

Aug. 17—Trial Proceedings: Merhige, J. Appearances: Parties and by counsel. Case resumed from 8-16-71. City Scl Bd adduced further evidence. Case con'td to 8-18-71.

Aug. 18—Order directing retention of record on appeal in District Court pending trial proceedings, ent. & filed 8-18-71. Clerk mailed copies to counsel.

Aug. 18—Certified copies delivered to Clerk of U.S. Court of Appeals in lieu of Appeal Record. gb

1971 *Docket Entries*

Aug. 18—In Open Court: Merhige, J. Appearances: Parties and by counsel. Intervenors Westover PTA & Belleview-Ginter motion to withdraw, granted.

Aug. 18—Trial Proceedings: Merhige, J. Appearances: Parties by counsel. Deft Richmond School Board adduced further evidence.

Aug. 19—Trial Proceedings: Merhige, J. Continued. Deft School Board of Richmond adduced further evidence, concluded evidence at this stage. Plaintiffs adduced evidence.

Aug. 20—Trial Proceedings: Merhige, J. Continued. Plaintiffs adduced evidence.

Aug. 23—Trial Proceedings: Merhige, J. Continued. Plaintiff adduced further evidence.

Aug. 24—Trial Proceedings: Merhige, J. Continued. Plaintiff adduced further evidence.

Aug. 25—Trial Proceedings: Merhige, J. Continued. Plaintiff adduced further evidence.

Aug. 26—Trial Proceedings: Merhige, J. Continued. Plaintiff adduced further evidence, rested with permission to put on one additional witness. Richmond School Board adduced further evidence, rested.

Aug. 26—Motion to amend pleadings to conform to evidence filed by Richmond School Board. pv

Aug. 27—Letter and chart from Supt. Adams re: changes in enrollment, rec'd and filed. LG

Aug. 27—In Open Court: Merhige, J. Appearances: Parties and by counsel. Arguments heard on objections to certain exhibits. Exhibits PL-17 & 108, RSB 10 & 72 withdrawn.

Aug. 31—Trial Proceedings: Merhige, J. Continued. Plaintiff adduced further evidence, rested. Deft. Henrico Board of Supervisors adduced evidence. Ruling on all defts motion to dismiss withheld pending conclusion of all evidence.

Sept. 1—Trial Proceedings: Merhige, J. Continued. Deft Henrico Board of Supervisors adduced further evidence, rested. Deft Chesterfield Board of Supervisors adduced evidence.

Sept. 2—Trial Proceedings: Merhige, J. Continued. Deft Chesterfield Board of Supervisors adduced evidence further. Deft Supt. Public Instruction adduced evidence. Case cont'd to September 7, 1971 at 10:00 A.M.

Sept. 7—Trial Proceedings: Merhige, J. Continued. Deft. Henrico School Board adduced evidence. Deft Chesterfield School Board adduced evidence.

Sept. 8—Trial Proceedings, Merhige, J. Continued. Deft Chesterfield School Board adduced further evidence. Deft Henrico School Board adduced further evidence. Deft Chesterfield Board of Supervisors adduced further evidence.

Sept. 9—Trial Proceedings: Merhige, J. Continued. Chesterfield Board of Supervisors adduced further evidence. Plaintiff adduced rebuttal evidence.

Sept. 10—Trial Proceedings: Merhige, J. Continued. Deft Henrico Board of Spvsrs adduced further evidence. Plaintiff adduced rebuttal evidence.

Sept. 13—Trial Proceedings: Merhige, J. Continued. Deft Richmond School Board adduced rebuttal evidence, rested. All parties rested. Evidence concluded. All parties have until October 1, 1971 to file proposed finding of

facts and conclusions of law. Amended exhibit lists to be filed within 3 days this date. Proposed decree to be filed by all parties by October 12, 1971: Plaintiff's motion for injunction, denied.

Sept. 14—Trial Proceedings: Merhige, J. Continued. Closing argument heard. Case retained under advisement by the Court.

Sept. 15—Order denying motion of the School Board & Board of Supervisors of Chesterfield County as enumerated in motion of June 23, 1971, entered, filed. Copies mailed as directed. pv.

Sept. 17—Discovery Material relied upon by the State Board of Education, The School Board and Board of Supervisors of Chesterfield County and The School Board and Board of Supervisors of Henrico County, filed. MLS

Sept. 20—Final Exhibit List, filed by Richmond School Board, filed. LG

Sept. 20—State Board Exhibit 14—Subsequent History of Statutes Included in Pltfs' Exhibit 114, filed. LG

Sept. 20—Transcript of Proceedings of Aug. 17, 1971—Vol. B, filed. LG

Sept. 20—Transcript of Proceedings of Aug. 18, 1971—Vol. C, filed. LG

Sept. 20—Transcript of Proceedings of Aug. 19, 1971—Vol. D, filed. LG

Sept. 20—Transcript of Proceedings of Aug. 20, 1971—Vol. E, filed. LG

Sept. 27—Transcript of proceedings of August 16, 1971, Vol. A, filed. pv.

Sept. 27—Transcript of proceedings of August 23, 1971, Vol. F, filed. pv.

Sept. 27—Motion for extension of time to file proposed findings of fact filed by plfs. MLS

Sept. 27—Order extending time to 10-8-71 for parties to file proposed Findings of Fact and Conclusions of Law, ent 9-27-71. Copies mailed counsel of record. MLS

Sept. 28—Richmond School Board's Report of information required under P-5(d)(8) of 4/5/71 Order recd and filed. lg

Oct. 4—Transcript of proceedings of August 24, 1971—Vol G, filed. pv.

Oct. 4—Transcript of proceedings of August 25, 1971—Vol H, filed. pv.

Oct. 4—Transcript of proceedings of August 26, 1971—Vol. I, filed. pv.

Oct. 4—Transcript of proceedings of August 27, 1971—Vol. J, filed, pv.

Oct. 4—Transcript of proceedings of August 31, 1971—Vol. K, filed, pv.

Oct. 7—Reporters transcript of proceedings of November 18, 1971 field. pv.

Oct. 18—Plaintiff's proposed order rec'd. pv.

Oct. 18—Transcript of proceedings of September 2, 1971, filed. Vol. M pv

Oct. 18—Transcript of proceedings of September 1, 1971, filed Vol. L pv

Oct. 18—Transcript of proceedings of September 9, 1971, filed—Vol. P. pv

Oct. 18—Transcript of proceedings of September 10, 1971, filed—Vol. Q. pv.

Oct. 18—Transcript of proceedings of September 13, 1971, filed—Vol. R. pv.

Oct. 21—Transcript & one copy of proceedings of March 4, 1971, rec'd and filed. lg

Oct. 22—Original of a bill for attorneys fees and cost in connection with motion for contempt against School Board of City of Richmond, rec'd in Judge's office on July 13, 1971, filed. (by plf) MLS

Oct. 28—Supplemental Memoranda in Support of Proposed Conclusions of Law filed by plfs. MLS

Oct. 29—Order modifying April 5, 1971 Court Order to delete reports required in paragraph 5(e); all other provisions of said order to remain in full force; ent 10/29/71 & filed. Copies mailed counsel. LG

Nov. 1—Reporter's transcript of proceedings, Volume N and O, filed. MLS

1972

Jan. 5—Memorandum of the Court re: consolidation, entered 1/5/71 & filed. LG

Jan. 10—Order (re: consolidation) denying motions of county & state defts. to dismiss amended complaint; granting Rich. School Board's motion for leave to amend answer & cross-claim; denying motion of county & state defts. to dismiss cross-claim; adding B. W. Frazier, W. P. Poff, E. M. Rogers as defts of Va. Board of Education & dismissing W. C. Miles; dismissing R. P. Eagles, G. L. Crump, C. C. Wells & C. D. Spencers as Chesterfield defts; & adding P. T. Holmes, G. R. Partin & E. A.

Mosely, Jr. as defts of Chesterfield Sch. Board; dismissing H. O. Browning, C. J. Purdy & A. R. Martin & F. F. Dietsch on Chesterfield Board of Supervisors & adding E. M. O'Neill, A. J. Krepela & L. Myers; dismissing on Henrico Bd. of Supervisors L. R. Shadwell, E. H. Ragsdale & C. K. Lorraine and adding E. T. Rilee; G. W. Jinkins & C. W. Johnson; enjoining defts. in steps to implement single school division; entered 1/10/72 & filed. Copies mailed counsel, members of boards. LG

Jan. 17—Motion to stay Court's Order of Jan. 10, 1972, filed by defts., Henrico Co. & Division Supt. of Schools and Henrico Co. Board of Supervisors; Chesterfield School Board, Division Supt. of Schools, Chesterfield Co. and Chesterfield Co. Board of Supervisors. (LG)

Jan. 17—Notice of motion filed by defts. (LG)

Jan. 17—Notice of motion and motion to stay court's order of 1/10/72 filed by defts. State Bd. of Education, Dr. W. W. Wilkerson with attached memorandum of authorities. (LG)

Jan. 18—In Open Court: Merhige, J.. Appearances: Parties By/With Counsel. This matter came on for hearing on defts' motions to stay Court's order of Jan. 10, 1972. Motion by deft intervenors to stay order filed in open court. Defts' motions for stay argued; taken under advisement by Court. (jwh)

Jan. 18—Opposition to stay of District Court Order of January 10, 1972, filed by deft. School Board of the City of Richmond. (jwh)

Jan. 18—Notice of Appeal filed by defts. State Board of Education and Dr. Woodrow W. Wilkerson, Supt. of Public Instruction. LG

1972 *Docket Entries*

Jan. 18—Notice of Appeal filed by defts. School Board of Chesterfield Co and Division Supt. of Schools of Chesterfield Co. and The Board of Supervisors of Chesterfield Co. MLS

Jan. 18—Notice of Appeal filed by School Board of Henrico Co. and Division Supt of Schools of Henrico Co., and The Board of Supervisors of Henrico Co. MLS

Jan. 19—Preliminary record (Copies of notices of appeal, docket entires, order of 1-10-72) del'd to Clerk, U.S.C.A.

Jan. 19—Memorandum of Court filed. (jwh)

Jan. 19—Order denying Motion to Stay this Court's order of Jan. 10, 1972, entered and filed. (jwh)

Jan. 20—Appeal record, in 35 volumes, del'd to Clerk, U.S.C.A. (Exhibits retained in District Court until requested.)

Jan. 20—Vol. 36, Reporter's transcript of proceedings of 11-18-70, del'd to Clerk, USCA. pv

Feb. 8—Notice of appeal filed by Intervenors Dawn Gaulding & Others. pv

Feb. 10—Notice of Appeal by Dawn Gauldin & others dld to Clerk, U.S.C.A. as supplement, pv

Feb. 23—Orig. of transcript of proceedings of January 18, 1972 filed. LG

May 1—In Open Court: Merhige, J. Appearances: Deft Richmond School Board by counsel. Counsel waived Court Reporter for proceedings. Deft Richmond School Board's motion, re: contingency of Revision of Plan III taken under advisement by the Court. 3 Tables of Projected Membership for Sept. 1972, Notes and Revised Boundary Descriptions Re: Plan III Revised, filed by deft Richmond School Board. jwh

1972 *Docket Entries*

May 4—Maps, 3, for revised Plan III, rec'd, filed. pv.

June 30—Certified copy of Judgment of USCA, in lieu of mandate, reversing order of USDC, rec'd from Clerk, USCA, filed, and copy of opinion of USCA, filed. MLS

June 30—Appeal record and Index to Record (36 Volumes) rec'd from Clerk, USCA. MLS

Nov. 6—Appeal record (36 volumes) del'd to Clerk, USCA. jwh

Dec. 1—Memorandum Decision of USCA, reversing order of USDC re counsel fees, rec'd, filed.

Dec. 21—Printed Opinion of Reversal decided 11/29/72 received.

ORIGINAL COMPLAINT

Filed September 5, 1961

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
Richmond Division

Civil Action No. 3353

Carolyn Bradley and Michael Bradley, infants, by Minerva Bradley, their mother and next friend, [*et al.*,]

* * *

Plaintiffs,

v.

The School Board of the City of Richmond, Virginia [*et al.*,]

* * *

Defendants.

Bill of Complaint

I

1. (a) Jurisdiction of this Court is invoked under Title 28, United States Code, Section 1331. This action arises under Article 1, Section 8, and the Fourteenth Amendment of the Constitution of the United States, Section 1, and under the Act of Congress, Revised Statutes, Section 1977, derived from the Act of May 31, 1870, Chapter 114, Section 16, 16 Stat. 144 (Title 42, United States Code, Section 1981), as hereafter more fully appears. The matter in controversy, exclusive of interest and cost, exceeds the sum of Ten Thousand Dollars ($10,000.00).

(b) Jurisdiction is further invoked under Title 28, United States Code, Section 1343. This action is authorized by the Act of Congress, revised Statutes, Section 1979, derived from the Act of April 20, 1871, Chapter 22, Section 1, 17 Stat. 13 (Title 42, United States Code, Section 1983), to be commenced by any citizen of the United States or other person within the jurisdiction thereof to redress the deprivation under color of state law, statute, ordinance, regulation, custom or usage of rights, privileges and immunities secured by the Fourteenth Amendment to the Constitution of the United States and by the Act of Congress, Revised Statutes, Section 1977, derived from the Act of May 31, 1870, Chapter 114, Section 16, 16 Stat. 144 (Title 42, United States Code, Section 1981), providing for the equal rights of citizens and of all persons within the jurisdiction of the United States as hereafter more fully appears.

II

2. Infant plaintiffs are Negroes, are citizens of the United States and of the Commonwealth of Virginia, and are residents of and domiciled in the political subdivision of Virginia for which the defendant school board maintains and operates public schools. Said infants are within the age limits of eligibility to attend, and possess all qualifications and satisfy all requirements for admission to, said public schools.

3. Adult plaintiffs are Negroes, are citizens of the United States and of the Commonwealth of Virginia, and are residents of and domiciled in said political subdivision. They are parents or guardians or persons standing *in loco parentis* of one or more of the infant plaintiffs.

4. Plaintiffs bring this action in their own behalf and,

there being common questions of law and fact affecting the rights of all other Negro children attending public schools in the Commonwealth of Virginia and, particularly, in the said political subdivision, and the parents and guardians of such children, similarly situated and affected with reference to the matters here involved, who are so numerous as to make it impracticable to bring all before the court, and a common relief being sought, as will hereinafter more fully appear, the plaintiffs also bring this action, pursuant to Rule 23(a) of the Federal Rule of Civil Procedure, as a class action on behalf of all other Negro children attending public schools in the Commonwealth of Virginia and, particularly, in said political subdivision, and the parents and guardians of such children, similarly situated and affected with reference to the matters here involved.

III

5. The Commonwealth of Virginia has declared public education a state function. The Constitution of Virginia, Article IX, Section 129, provides:

> "Free schools to be maintained. The General Assembly shall establish and maintain an efficient system of public free schools throughout the State."

Pursuant to this mandate, the General Assembly of Virginia has established a system of public free schools in the Commonwealth of Virginia according to a plan set out in Title 22, Chapters 1 to 15, inclusive, of the Code of Virginia, 1950. The establishment, maintenance and administration of the public school system of Virginia is vested in a State Board of Education, a Superintendent of Public Instruction, Division Superintendents of Schools, and County, City and

Town School Boards (Constitution of Virginia, Article IX, Sections 130-133; Code of Virginia, 1950, Title 22, Chapter 1, Section 22-2).

IV

6. The defendant school board, the corporate name of which is stated in the caption, exists pursuant to the Constitution and laws of the Commonwealth of Virginia as an administrative department of the Commonwealth, discharging governmental functions, and is declared by law to be a body corporate. Said school board is empowered and required to establish, maintain, control and supervise an efficient system of public free schools in said political subdivision, to provide suitable and proper school buildings, furniture and equipment, and to maintain, manage and control the same, to determine the studies to be pursued and the methods of teaching, to make local regulations for the conduct of the schools and for the proper discipline of the students, to employ teachers, to provide for the transportation of pupils, to enforce the school laws, and to perform numerous other duties, activities and functions essential to the establishment, maintenance and operation of the public free schools in said political subdivision. (Constitution of Virginia, Article IX, Section 133, Code of Virginia, 1950, as amended, Title 22.)

7. The defendant division superintendent of schools, whose name as such officer is stated in the caption, holds office pursuant to the Constitution and laws of the Commonwealth of Virginia as an administrative officer of the public free school system of Virginia. (Constitution of Virginia, Article IX, Section 133, Code of Virginia, 1950, as amended, Title 22.) He is under the authority, supervision

and control of, and acts pursuant to the orders, policies, practices, customs and usages of the defendant school board. He is made a defendant herein in his official capacity.

V

8. A Virginia statute, first enacted as Chapter 70 of the Acts of the 1956 Extra Session of the General Assembly, viz, Article 1.1 of Chapter 12 of Title 22 (Sections 22-231.1 through 22-232.17) of the Code of Virginia, 1950, as amended, confers or purports to confer upon the Pupil Placement Board all power of enrollment or placement of pupils in the public schools in Virginia and to charge said Pupil Placement Board to perform numerous duties, activities and functions pertaining to the enrollment or placement of pupils in, and the determination of school attendance district for, such public schools, except in those counties, cities or towns which elect to be bound by the provisions of Articles 1.2 of Chapter 12 of Title 22 (Sections 22-232.18 through 22-232.31) of the Code of Virginia, 1950, as amended. (Section 22-232.30 of the Code of Virginia, 1950, as amended.) The names of the individual members of the Pupil Placement Board are stated in the caption.

9. Said statute provides that each school child who has heretofore attended a public school and who has not moved from the county, city or town in which he resided while attending said school shall attend the same school which he last attended until graduation therefrom unless enrolled, for good cause shown, in a different school by the Pupil Placement Board. The purposes and effect of said provision are to continue, in general, the discriminatory effect of the pre-existing requirement of the Commonwealth of Virginia that children in public schools be segregated on the basis of

race and, also, to prevent local school authorities from devoting efforts toward initiating desegregation and bringing about the elimination of racial discrimination in the public school system and from making any prompt and reasonable start toward full compliance with the May 17, 1954, decision of the Supreme Court in *Brown* v. *Board of Education.*

10. Said statute further provides that any child who desires to enter a public school for the first time and any child who is graduated from one school to another within a school division or who transfers to or within a school division, or any child who desires to enter a public school after the opening of the session, shall apply to the Pupil Placement Board for enrollment and shall be enrolled in such school as said Board deems proper. The purpose of this provision, the practice thereunder, and the effect thereof are and have been that throughout the State of Virginia, and particularly in the political subdivision hereinabove mentioned, all white children are and have been assigned to schools generally known and considered as schools for white children; and Negro children, with few exceptions, if any, have been assigned to and placed in schools which no white children attend.

11. The statute further provides that the parents or guardians, if aggrieved by action of the Pupil Placement Board in enrolling their child in a public school, may file with the Board a protest in writing within fifteen days after the placement of such child; whereupon the Board will hold or cause to be held a hearing after publishing notice thereof once a week for two successive weeks in a newspaper of general circulation in the city or county wherein the aggrieved party or parties reside. The calculated effect of such publication in the cases of parents who seek for their child or chil-

dren the right to attend public school on a racially nondiscriminatory basis is to call the attention of the community to the dissidence of the Negro parents who seek for their child a racially nonsegregated public school education and thus to subject that parent to such pressures which may be brought to induce abandonment of a federally protected right. Another practice of the Board in acting upon the protest is to require both parents and the child to appear before the Board, often at a place distant from their home and usually at considerable expense; such practice being calculated to induce the parents to forego their child's federally protected right to a racially nonsegregated public school education. Furthermore, the Board's original denial of the application for transfer usually comes at such time that, after the subsequent protest and hearing and action by the Board thereon, judicial remedy effective at the commencement of the next school term is forestalled.

VI

12. As matters of routine, every white child entering school for the first time is initially assigned to and placed in a school which predominantly, if not exclusively, is attended by white children; or if otherwise assigned, then, upon request of the parents or guardians, such child is transferred to a school which, being attended exclusively or predominantly by white children, is considered as a school for white children. Upon graduation from elementary school, every white child is routinely assigned to a high school or junior high school which is predominantly, if not exclusively, attended by white children. Similarly, and with few if any exceptions, Negro children entering school for the first time are initially assigned to a school which none but Negroes

attend and upon their graduation from elementary school they are routinely assigned to a high school or to a junior high school which none but Negroes attend. Thus, in the free public schools of the Commonwealth of Virginia, and particularly in the schools maintained and operated by the defendant school board, the pre-existing pattern of racial segregation in public schools continues unaffected except in the few instances in which Negroes have sought and obtained admission to schools other than those attended exclusively by Negroes.

13. To avoid the discriminatory result of the practice described in the paragraph next preceding, the Negro child, or his parent or guardian for him, is required to make application for transfer from the school which none but Negroes attend to a school specifically named. In acting upon such application for transfer from the all-Negro school, the defendants take into consideration certain criteria which defendants do not consider when making initial enrollments or placements in any school other than the initial placement or enrollment of a Negro child in a school which white children attend. If such criteria are not met, the application for transfer is denied. For example, if the home of the applicant is closer to the school to which he has been assigned than to the school to which transfer is sought, the application is denied notwithstanding the fact that the latter school is attended by white children similarly situated with respect to residence. For further example, if intelligence, achievement or other standardized test scores or other academic records of the applicant do not compare favorable with the best or the better of similar scores or records of children attending or assigned to the school which the applicant seeks to attend, the application is denied notwithstanding the fact that many

white children attending said school have lower scores or lower academic records than the applicant has.

VII

14. The defendants have not devoted efforts toward initiating nonsegregation and bringing about the elimination of racial discrimination in the public school system, neither have they made a reasonable start to effectuate a transition to a racially nondiscriminatory system, as under paramount law it is their duty to do. Deliberately and purposefully, and solely because of race, the defendants continue to require all or virtually all Negro public school children to attend school where none but Negroes are enrolled and to require all white public school children to attend school where few, if any, Negroes are enrolled.

15. Each infant plaintiff has made timely application to the defendants for admission to a public school in said political subdivision heretofore and now maintained for and attended predominantly, if not exclusively, by white persons; but the defendants, acting pursuant to a policy, practice, custom and usage of segregating school children on the basis of race and color, have denied the application of each of said infant plaintiffs solely on account of their race and color.

16. The refusal of the defendants to grant the application of each of the plaintiffs for enrollment as requested constitutes a deprivation of liberty without due process of law and a denial of the equal protection of the laws secured by the Fourteenth Amendment to the Constitution of the United States, and a denial of rights secured by Title 42, United States Code, Section 1981.

17. Plaintiffs and those similarly situated and affected are suffering irreparable injury and are threatened with irreparable injury in the future by reason of the policy, practice, custom and usage and the actions of the defendants herein complained of. They have no plain, adequate or complete remedy to redress the wrongs and illegal acts herein complained of other than this complaint for an injunction. Any other remedy to which plaintiffs and those similarly situated could be remitted would be attended by such uncertainties and delays as would deny substantial relief, would involve a multiplicity of suits, and would cause further irreparable injury and occasion damage, vexation and inconvenience.

VIII

Wherefore, plaintiffs respectfully pray:

(A) That this Court enter an interlocutory and a permanent injunction restraining and enjoining defendants, and each of them, their successors in office, and their agents and employees, forthwith, from denying infant plaintiffs, or either of them, solely on account of race or color, the right to be enrolled in, to attend and to be educated in, the public schools to which they, respectively, have sought admission;

(B) That this Court enter a permanent injunction restraining and enjoining defendants, and each of them, their successors in office, and their agents and employees from any and all action that regulates or affects, on the basis of race or color, the initial assignment, the placement, the transfer, the admission, the enrollment or the education of any child to and in any public school;

(C) That, specifically, the defendants and each of them,

their successors in office, and their agents and employees be permanently enjoined and restrained from denying the application of any Negro child for assignment in or transfer to any public school attended by white children when such denial is based solely upon requirements or criteria which do not operate to exclude white children from said school;

(D) That the defendants be required to submit to the Court a plan to achieve a system of determining initial assignments, placements or enrollments of children to and in the public schools on a non-racial basis and be required to make periodical reports to the Court of their progress in effectuating a transition to a racially non-discriminatory school system; and that during the period of such transition the Court retain jurisdiction of this case;

(E) That defendants pay to plaintiffs the costs of this action and attorney's fees in such amount as to the Court may appear reasonable and proper; and

(F) That plaintiffs have such other and further relief as is just.

/s/ Henry L. Marsh, III
Of Counsel for Plaintiffs

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Attorneys for Plaintiffs

AMENDED COMPLAINT

Filed January 4, 1962

IN THE UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF VIRGINIA

Richmond Division

[Title Omitted in Printing]

* * *

I

1. (a) Jurisdiction of this Court is invoked under Title 28, United States Code, Section 1331. This action arises under Article 1, Section 8, and the Fourteenth Amendment of the Constitution of the United States, Section 1, and under the Act of Congress, Revised Statutes, Section 1977, derived from the Act of May 31, 1870, Chapter 114, Section 16, 16 Stat. 144 (Title 42, United States Code, Section 1981), as hereafter more fully appears. The matter in controversy, exclusive of interest and cost, exceeds the sum of Ten Thousand Dollars ($10,000.00).

(b) Jurisdiction is further invoked under Title 28, United States Code, Section 1343. This action is authorized by the Act of Congress, revised Statutes, Section 1979, derived from the Act of April 20, 1871, Chapter 22, Section 1, 17 Stat. 13 (Title 42, United States Code, Section 1983), to be commenced by any citizen of the United States or other person within the jurisdiction thereof to redress the deprivation under color of state law, statute, ordinance, regulation, custom or usage of rights, privileges and immunities secured by the Fourteenth Amendment to the Constitution of the United States and by the Act of Congress, Revised Statutes, Section 1977, derived from the Act of May 31, 1870, Chapter 114, Section 16, 16 Stat. 144 (Title 42, United States Code, Section 1981), providing for the equal

rights of citizens and of all persons within the jurisdiction of the United States as hereafter more fully appears.

II

2. Infant plaintiffs are Negroes, are citizens of the United States and of the Commonwealth of Virginia, and are residents of and domiciled in the political subdivision of Virginia for which the defendant school boards maintain and operate public schools. Said infants are within the age limits of eligibility to attend, and possess all qualifications and satisfy all requirements for admission to, said public schools.

3. Adult plaintiffs are Negroes, are citizens of the United States and of the Commonwealth of Virginia, and are residents of and domiciled in said political subdivision. They are parents or guardians or persons standing *in loco parentis* of one or more of the infant plaintiffs.

4. Plaintiffs bring this action in their own behalf and, there being common questions of law and fact affecting the rights of all other Negro children attending public schools in the Commonwealth of Virginia and, particularly, in the said political subdivision, and the parents and guardians of such children, similarly situated and affected with reference to the matters here involved, who are so numerous as to make it impracticable to bring all before the court, and a common relief being sought, as will hereinafter more fully appear, the plaintiffs also bring this action, pursuant to Rule 23(a) of the Federal Rule of Civil Procedure, as a class action on behalf of all other Negro children attending public schools in the Commonwealth of Virginia and, particularly, in said political subdivision, and the parents and

guardians of such children, similarly situated and affected with reference to the matters here involved.

III

5. The Commonwealth of Virginia has declared public education a state function. The Constitution of Virginia, Article IX, Section 129, provides:

> "Free schools to be maintained. The General Assembly shall establish and maintain an efficient system of public free schools throughout the State."

Pursuant to this mandate, the General Assembly of Virginia has established a system of public free schools in the Commonwealth of Virginita according to a plan set out in Title 22, Chapters 1 to 15, inclusive, of the Code of Virginia, 1950. The establishment, maintenance and administration of the public school system of Virginia is vested in a State Board of Education, a Superintendent of Public Instruction, Division Superintendents of Schools, and County, City and Town School Boards (Constitution of Virginia, Article IX, Sections 130-133; Code of Virginia, 1950, Title 22, Chapter 1, Section 22-2).

IV

6. Each defendant school board, the corporate name of which is stated in the caption, exists pursuant to the Constitution and laws of the Commonwealth of Virginia as an administrative department of the Commonwealth, discharging governmental functions, and is declared by law to be a body corporate. Said school board is empowered and required to establish, maintain, control and supervise

an efficient system of public free schools in said political subdivision, to provide suitable and proper school buildings, furniture and equipment, and to maintain, manage and control the same, to determine the studies to be pursued and the methods of teaching, to make local regulations for the conduct of the schools and for the proper discipline of the students, to employ teachers, to provide for the transportation of pupils, to enforce the school laws, and to perform numerous other duties, activities and functions essential to the establishment, maintenance and operation of the public free schools in said political subdivision. (Constitution of Virginia, Article IX, Section 133; Code of Virginia, 1950, as amended, Title 22.)

7. The defendant division superintendent of schools, whose name as such officer is stated in the caption, holds office pursuant to the Constitution and laws of the Commonwealth of Virginia as an administrative officer of the public free school system of Virginia. (Constitution of Virginia, Article IX, Section 133; Code of Virginia, 1950, as amended, Title 22.) He is under the authority, supervision and control of, and acts pursuant to the orders, policies, practices, customs and usages of the defendant school board. He is made a defendant herein in his official capacity.

8. A Virginia statute, first enacted as Chapter 70 of the Acts of the 1956 Extra Session of the General Assembly, viz, Article 1.1 of Chapter 12 of Title 22 (Sections 22-231.1 through 22-232.17) of the Code of Virginia, 1950, as amended, confers or purports to confer upon the Pupil Placement Board all power of enrollment or placement of pupils in the public schools in Virginia and to charge said Pupil Placement Board to perform numerous duties, activities and functions pertaining to the enrollment or placement

of pupils in, and the determination of school attendance district for, such public schools, except in those counties, cities or towns which elected to be bound by the provisions of Article 1.2 of Chapter 22 of Title 22 (Sections 22-232.18 through 22-232.31) of the Code of Virginia, 1950, as amended. (Section 22-232.30 of the Code of Virginia, 1950, as amended.) The names of the individual members of the Pupil Placement Board are stated in the caption.

V

9. Notwithstanding the holding and admonitions in *Brown* v. *Board of Education*, 347 U.S. 483, and 349 U.S. 294, the preexisting pattern of racial segregation in the public schools maintained and operated by the defendant school board continues unaffected except in the few instances, if any there are, in which individual Negroes have sought and obtained admission to schools other than those attended exclusively by Negroes. The defendants have not devoted efforts toward initiating nonsegregation and bringing about the elimination of racial discrimination in the public school system, neither have they made a reasonable start to effectuate a transition to a racially non-discriminatory school system, as under paramount law it is their duty to do. Deliberately and purposefully, and solely because of race, the defendants continue to require all or virtually all Negro public school children to attend school where none but Negroes are enrolled and to require all white public school children to attend school where no Negroes, or at best few Negroes, are enrolled.

10. As matters of routine, every white child entering school for the first time is initially assigned to and placed in a school which predominantly, if not exclusively, is at-

tended by white children; or if otherwise assigned, then, upon request of the parents or guardians, such child is transferred to a school which, being attended exclusively or predominantly by white children, is considered as a school for white children. Upon graduation from elementary school, every white child is routinely assigned to a high school or junior high school which is predominantly, if not exclusively, attended by white children. Similarly, and with few if any exceptions, Negro children entering school for the first time are initially assigned to a school which none but Negroes attend and upon their graduation from elementary school they are routinely assigned to a high school or to a junior high school which none but Negroes attend.

11. To avoid the racially discriminatory result of the practice described in the paragraph next preceding, the Negro child, or his parent or guardian for him, is required to make application for transfer from the school which none but Negroes attend to a school specifically named. In acting upon such application for transfer from the all-Negro school, the defendants take into consideration certain criteria which defendants do not consider when making initial enrollments or placements in any school other than the initial placement or enrollment of a Negro child in a school which white children attend. If such criteria are not met, the application for transfer is denied. For example, if the home of the applicant is closer to the school to which he has been assigned than to the school to which transfer is sought, the application is denied notwithstanding the fact that the latter school is attended by white children similarly situated with respect to residence. For further example, if intelligence, achievement or other standardized test scores or other academic records of the applicant do not compare favorably

with the best or the better of similar scores or records of children attending or assigned to the school which the applicant seeks to attend, the application is denied notwithstanding the fact that many white children attending said school have lower scores or lower academic records than the applicant has.

VI

12. Timely application was made to the defendants for the admission of each infant plaintiff to a public school in said political subdivision heretofore and now attended exclusively or predominantly by white persons. The refusal of such application was made known to the parent, or guardian, of each infant plaintiff by letter from the Pupil Placement Board indicating the placement of the child in a certain school, which school is one attended exclusively by Negroes. In the case of each infant plaintiff, a written protest of such placement was made to the Pupil Placement Board within the time prescribed by statute; whereupon the Pupil Placement Board scheduled a hearing upon said protest. In the case of each infant plaintiff, but only to the extent that such details can now be stated with certainty, the attached "Schedule 'A' " sets out: (1) the name of the infant plaintiff, (2) the school assignment to which is sought, (3) the date of the letter from the Pupil Placement Board and the name of the all-Negro school in which the infant plaintiff was placed, (4) the reason assigned for denial of the application, and (5) the date and place of the hearing on the protest of the placement. Notwithstanding the said protest and hearing thereon, the Pupil Placement Board confirmed its placement previously made in the case of each of the infant plaintiffs.

13. But for the deliberate purpose of the defendants to avoid performance of their duty as hereinabove mentioned in paragraph 9 hereof, plaintiffs would have had no need to apply for attendance at certain schools. But for the fact that the defendants intend to maintain the racially segregated pattern of public schools through the routine practices described in paragraph 10 hereof, the applications made on behalf of the infant plaintiffs would have been granted. Solely by reason of the practices, customs, usages and calculated result thereof as mentioned and complained of in paragraph 11 hereof, the placement of each infant plaintiff in an all-Negro school was confirmed, even after protest. Unless and until the defendants, as a result of injunction or otherwise, will cease and desist from the practice and usage mentioned in paragraph 11, applications and protests will be vain and futile when made on behalf of any Negro child situated as the infant plaintiffs are with regard to residence or with regard to intelligence, achievement or other standardized test scores or other academic records.

VII

14. The refusal of the defendants to grant the requested assignments, viewed in the light of the refusal of the defendants to bring about the elimination of racial discrimination in the public school system and to make a reasonable start to effectuate a transition to a racially non-discriminatory system, constitutes a deprivation of the liberty of the infant plaintiffs as well as all other Negro public school children within said political subdivision and a denial of their right to the equal protection of the laws secured by the Fourteenth Amendment to the Constitution of the United States, and a denial of rights secured by Title 42, United States Code, Section 1981.

15. Plaintiffs and those similarly situated and affected are suffering irreparable injury and are threatened with irreparable injury in the future by reason of the policy, practice, custom and usage and the actions of the defendants herein complained of. They have no plain, adequate or complete remedy to red s the wrongs and illegal acts herein complained of other than this complaint for an injunction. Any other remedy to which plaintiffs and those similarly situated could be remitted would be attended by such uncertainties and delays as would deny substantial relief, would involve a multiplicity of suits, and would cause further irreparable injury and occasion damage, vexation and inconvenience.

VIII

Wherefore, plaintiffs respectfully pray:

(A) That this Court enter an interlocutory and a permanent injunction restraining and enjoining defendants, and each of them, their successors in office, and their agents and employees, forthwith, from denying infant plaintiffs, or either of them, solely on account of race or color, the right to be enrolled in, to attend and to be educated in, the public schools to which they, respectively, have sought admission.

(B) That this Court enter a permanent injunction restraining and enjoining defendants, and each of them, their successors in office, and their agents and employees from any and all action that regulates or affects, on the basis of race or color, the initial assignment, the placement, the transfer, the admission, the enrollment or the education of any child to and in any public school;

(C) That, specifically, the defendants and each of them, their successors in office, and their agents and employees be

permanently enjoined and restrained from denying the application of any Negro child for assignment in or transfer to any public school attended by white children when such denial is based solely upon requirements or criteria which do not operate to exclude white children from said school;

(D) That the defendants be required to submit to the Court a plan to achieve a system of determining initial assignments, placements or enrollments of children to and in the public schools on a non-racial basis and be required to make periodical reports to the Court of their progress in effectuating a transition to a racially non-discriminatory school system; and that during the period of such transition the Court retain jurisdiction of this case;

(E) That defendants pay to plaintiffs the costs of this action and attorney's fees in such amount as to the Court may appear reasonable and proper; and

(F) That plaintiffs have such other and further relief as is just.

/s/ Henry L. Marsh, III
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[Certificate of Service and Schedule "A" Attachment Omitted in Printing]

PROCEEDINGS OF JUNE 24, 1970

UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF VIRGINIA

C. A. No. 3353

[766] June 24, 1970

(Whereupon, the trial of the case was resume [*sic*] at 10:00 a.m., as follows:)

* * *

[828] M. Pope Taylor

The said witness, being first duly sworn, testified as follows, to-wit:

Direct Examination

By Mr. Chachkin:

Q Would you state your name, address and occupation, please? A M. Pope Taylor, 4804 Monument Avenue; occupation, Manager, Richmond Branch Office, Lawyers Title Insurance Corporation.

Q How long have you been with the Lawyers Title Insurance Corporation? A Since August 1, 1937.

Q Has all of your experience been in Richmond? A Yes, sir.

Q Mr. Taylor, did you bring with you, pursuant to the subpoena, this morning two volumes of the restriction books maintained by the Lawyers Title Insurance Corporation? A Yes, sir.

Q Are those the volumes (indicating)? A Yes, sir.

Q Will you tell the Court what the function of those books is entirely within your organization? [829] A Those

books contain some of the restrictive covenants that have been placed in deeds conveying real estate in the city of Richmond, Henrico, Chesterfield, and Hanover.

Q Do they contain listings of covenants applicable to subdivisions that have been developed, general covenants that appear in all of the deeds in the subdivisions? A These are some of the restrictive covenants. They do not purport to be all that are records.

Q And are they listed by subdivision? A Yes, sir. For convenience, we have listed them with a subdivision caption.

Q How many total volumes do you have? You have only brought two with you. How many are maintained by the Company? A At the present we have 6 volumes of this nature. Most of them are larger than these.

Q Mr. Taylor, would you examine the first volume? I believe it contains your numbers 1-A to 49.
Could you turn to 8-F? A Yes, sir.

Q What subdivision is that applicable to? A Boulevard Residence Park Conditions and [830] Restrictions.

Q Does that contain a listing including a covenant against sale or occupancy by non-whites? A Yes, sir.

Q Could you read it, please? A First, that the property shall not be sold, rented or otherwise disposed of to persons of African descent.

Q Would you examine the listing of the covenants of—does it indicate that there is any expiration date for that covenant? A No, sir, none that I have listed.

Q Could you turn back to Page 7-A in that volume? A Yes, sir.

Q What subdivision is that applicable to? A Bloomingdale.

Q Among the covenants for the Bloomingdale Subdivision, is there one that restricts sale or occupancy to non-whites? A Yes, sir.

Q Would you read that, please? A First, neither the—

Mr. Wickham: Your Honor please, I [831] would like to object to this line of questioning on the grounds it is not material.

As a matter of law, since 1948 restrictive covenants of this nature have not been enforceable in the Courts of this state.

The Court: Objection overruled.

Go ahead, sir.

Q Would you read the covenant please, Mr. Taylor? A "First, neither the said land nor any part thereof, nor any building or structure that may be erected thereon shall be sold, conveyed, leased, rented, or otherwise disposed of to any other than white persons as the owners or tenants thereof, unless servants of white owners or tenants thereof."

Q And does that also indicate that the property would revert to the original owners if the property was conveyed to a non-white?

I believe it is at the top of the page underlined in red. A There is a notation at the top of the page which would indicate that it contained a reversionary clause.

Q Would you read the first sentence in the list [832] of restrictions, the general sentence at the top? A This deed is made subject to the following restrictions in the default of which the said lots will revert to the parties of the first part.

Q And listed under that is the covenant restricting sale or occupancy to non-white? A That is one of them.

Q Yes, sir. Could you turn to Page 28-A please, Mr. Taylor?

The Court: What was the page, Mr. Chachkin?

Mr. Chachkin: 28-A.

A Yes, sir.

Q What subdivision is that applicable to? A Ginter Park Conditions and Restrictions, Seminary Avenue.

Q Would you read No. 6 please? A No. 6. That no part of said land shall be sold or leased to any person not of the Caucasian race.

Q The last, Mr. Taylor, could you find No. 313-A in the other volume? A Yes, sir.

Q What subdivision is that for? [833] A Rollingwood Addition.

Q And would you read the covenant that is marked with a small a in parenthesis? A That neither the said land nor any part thereof, nor any interest therein shall be sold or leased to any colored persons, nor to any body politic or corporate composed of or controlled by colored persons.

Q Does the information in your book indicate the date on which that restriction was imposed? A Imposed in

deed from the West End Corporation, dated November 10, 1935, recorded December the 18th, 1935, in the Clerk's Office, Circuit Court of Henrico County, Virginia, in Deed Book, 262, Deed Page 279—

Mr. Wickham: Your Honor please, I object to this type of evidence on the grounds it is not in the city of Richmond.

The Court: I don't know.

Mr. Wickham: He is talking about deeds in Henrico County.

The Court: What about it, Mr. Chachkin? Is that now in the city?

Mr. Chachkin: I will accept Mr. Wickham's representation that it is not within the [834] present city limits of Richmond, Your Honor.

I think it is relevant to the problem relating to this action.

Mr. Wickham: Your Honor please, I did not represent that it is not in the city of Richmond. I mean I—

The Court: You think the burden is on them to show that it is in the city of Richmond?

Mr. Wickham: That is correct.

The Court: I think your position is well taken.

It may be. It may be part of that old annexed area. I don't know.

Mr. Chachkin: Your Honor, I will check on that.

The Court: Make a check and make a representation.

It may be part of that area that was annexed, that part of Henrico County that was annexed in 1952, I think it was, something like that.

Q Mr. Taylor, in the course of your work in this area over the last, what, 19—I believe since [835] 1937, are you fairly familiar with these records maintained by your company? A Yes, sir.

Q And did most of the subdivision deeds for which you have records, up until a period in the early 1950's, almost all those deeds, contain the kind of restrictions that I have had you read, according to your records? A I would say that the majority of them carried such restrictions, yes, sir.

Q Do you have any idea how long that practice continued, as reflected by your records? A It continued up until about February 15, 1950.

Q What happened on that date? A Well, that was—at that time the Federal Housing Administration and the VA said that they would not loan on any property that imposed racial restrictions.

So from then on, most subdividers omitted the racial restrictions.

Q Do your records reflect that, however, that not all subdividers omitted it? A I would not say that all of them did, no, sir.

Q Mr. Taylor, from your knowledge of the [836] development of the city during that time, have there been very many subdivisions within the city limits of Richmond since 1950?

Let's take the original city limits prior to the last annexation. A I would say there have been very few. As a matter of fact, I couldn't name one right now, that there has been no vacant land to develop within the bounds of the city of Richmond that I know of.

Mr. Chachkin: I have no further questions.

The Court: Mr. Chachkin, before you get off, I am going to reverse my ruling on that. I think there may be some materiality to do with that issue, whether it is in the county of Henrico or in the city.

If that slowed down your examination, you may continue.

Q Mr. Taylor, would you just look back at Page 313-A? A Yes, sir.

Q Does the last part of the, I believe it is the first paragraph indicate that the restriction you read earlier was imposed by a deed re-recorded in 1953? [837] A That is correct. I did not read that part of it. I had not gotten to it.

Mr. Chachkin: I have no further questions.

The Court: Mr. Wimbish?

Mr. Wimbish: Yes, sir.

The Court: Cross-examination?

Cross-Examination

By Mr. Wimbish:

Q Mr. Taylor, sir, do you at Lawyers Title limit your insurance policies of Title based on race? A No, sir, not at present.

The Court: Did you ever?

The Witness: Well, previously we would report those restrictive covenants and recite them as they appeared of record. If they contained a racial restriction, the policy would carry the racial restriction along with all the rest of the restrictions. But since last year we have been cutting

out, when we issue a policy, any reference to race at all in any policy that is being issued.

The Court: Only in the last year?

The Witness: Only since last November, [838] yes, sir.

Q Is this irrespective as to whether there is any restriction in there or not, sir? A If there is any there we cut it out. If there is none there, of course, we don't say that there is.

I don't know that I got your question.

Q By "cut it out," what do you mean, sir?

Maybe we can explain it. A For example, if the restrictions Item 1 was a racial restriction, we would block that out in issuing the policy entirely.

Q Now, you mean you would not insure it; is that what you are saying? A We would insure the title, certainly, but, in effect, we would be insuring that there are no racial restrictions.

Q Suppose someone got sued as result of not being able to use the land because of a racial restriction, what would you do? A We would hire a Counsel and defend suit.

Q Have you been flooded with those in the last 20 years, sir? A No, sir.

[839] Q Do you know of any? A I can't say that I do.

Q Can't remember any? A No, sir.

Mr. Wimbish: No questions.

The Court: Mr. Allen?